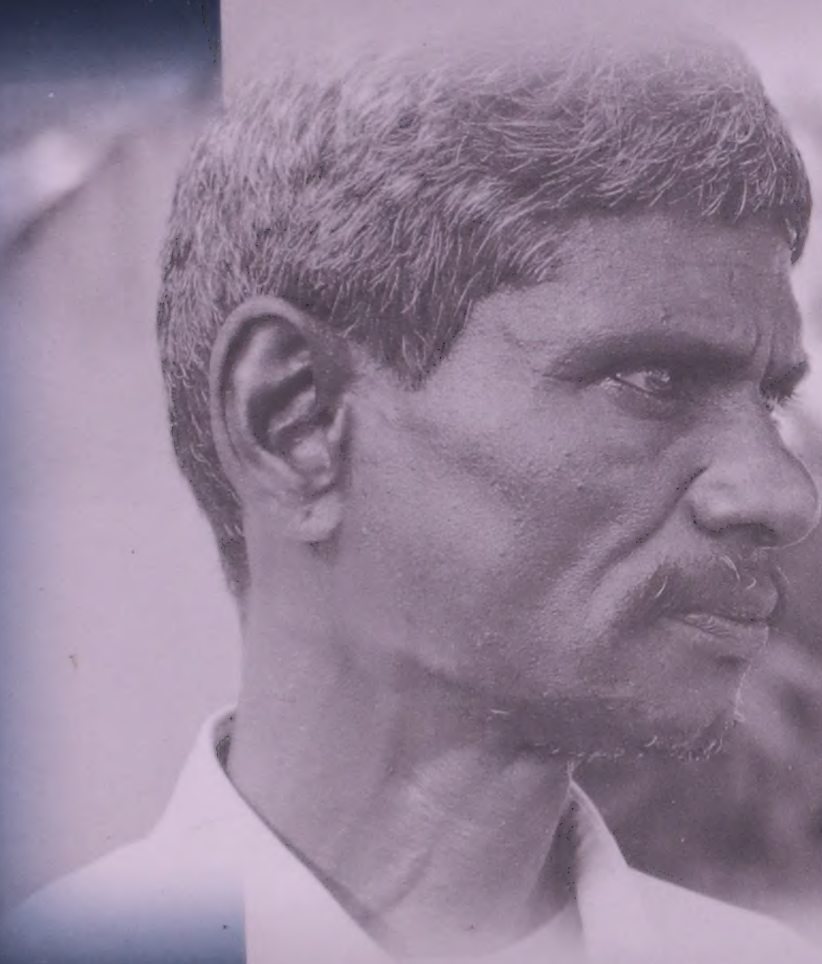


# **ATROCITIES AGAINST DALITS AND RELEVANCE OF LAND REFORMS**

**WITH SPECIAL REFERENCE TO TAMILNADU**



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# **ATROCITIES AGAINST DALITS**

**AND**

## **RELEVANCE OF LAND REFORMS**

**WITH SPECIAL REFERENCE TO TAMILNADU**

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# ATROCITIES AGAINST DALITS

AND

## RELEVANCE OF URBAN REFORMS

IN THE PRESENT SITUATION

T. S. Srinivasan

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## **FOREWORD**

The glorious past of India and its ancient heritage of culture remain dormant, even buried, because the atrocities, handicaps and barbarous practices of feudal society are still in vogue in Tamilnadu even today. It is a shame that this savage terrorism survives in Bharat. Our Constitution, which was the product of the struggle against the British Empire and tyrant princelings, caste cruelties and inhumanity are glorious in print. It would have been a noble instrument, if only justly implemented and would have made the Right to Life of every Indian rich and egalitarian, invested with divinity and endowed with opportunity for Development and escalation in stature. Such a Right to Life is our birthright in law, but alas, a negation in life. The atrocities against Dalits, the unbearable affliction of homeless, starving Adivasis, and the primitive social deprivations which a large proposition of Indian humanity suffers today, desiderate militant action for the abolition of this widespread wretchedness. This is a shame unless, We the People of India arise, awake and stop not till the goal of human liberation is accomplished. Mr. T. Lajpathi Roy, the brilliant young jurist, has written a marvelous thesis exposing the horrendous scenario that even today prevails. “Swaraj is my birthright” said the great Tilak. Equality is a human right, says the Universal Declaration. Latifundists hold us slaves. Dalits and adivasis who remain, by a feudal convention, slaves attached to owners’ land are ‘free’ but on paper. How shall we actualize their liberation, without which social revolution will never gain locomotion? How shall we promote



development of faculties of the humblest who lack health and nutrition, facilities for education and ability to combat diseases? How shall we liberate the downtrodden untouchables and unapproachable from the higher castes and temple thralldom? Indeed, our religions and shrines are often using worship and priestly holiness as instruments of oppression and landed servitude. Tamilnadu (why, other States too) has become the fortress of caste - based social stratification, notwithstanding land reform legislations, constitutional reservation of employment and educational opportunities.

If only our goal is what the Preamble proclaims, we have miles to go and promises to keep make society true to its rhetoric. All these generalities and platitudes have hardly succeeded through legislation to win the Founding Fathers' vision. That vision, which once had crusaders' passion, has now died down with the result that humanism and compassion slumber in Part IV-A of the Constitution and injustice, economic and social, remain static. Dialectical materialism which gave us the diagnostic process of understanding social maladies holds good even today, and exploitative and sexploitative vices remain invulnerable, our courts being insensitive to use their punitive powers. Our Executive and Legislature Organisations being insouciant, the dynamics of change has lost its power to reverse the die-hard victimization of Dalits. The Proprietariat oppresses the Proletariat and the law fails in its functions. We have entered the New Millennium; we have transformed our corpus juris; we have instruments of Universal Declaration bestowing a lofty value for life and justice. Alas, everything by way of technological revolution, helps promote the hidden agenda of the rich and robbed the little man's chance of survival. What then is the use of the Rule of Law? St. Augustine has rightly said: Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms?



The time has come for the Dalits to dynamize their campaign and reorient society. Lajpathi Roy has concretized the thoughts that I have expressed by facts of life from Tamilnadu, the ideological implication being what I have sought to express. He has done well by exposing those with wealth and advocating the cause of those with "ilth". SOCO Trust in publishing Roy's work, has added to the arsenal of weapons to transform a terrorist society into a just social order.

**July 26, 2005**

**V. R. KRISHNA IYER**



## ***Author's Preface***

The roots of this book go back to my nearly two decades of association with SOCO Trust, since 1986. The ugly face of untouchability was exposed to me more than ever by the tireless work of SOCO Trust. When the team of activists from SOCO Trust crisscrossed several states to release child bonded labourers, we found that every second child rescued from bondage is from Scheduled Caste and their parents are landless, almost all the family of the child bonded labourers were in one or other form of bondage.

Untouchability is a worst uncivilised form of slavery, practiced with religious sanction. This institutionalised slavery cannot be abolished without erasing the religious sanction. However, positive effort of land reforms is essential to move one step ahead in the process of self empowerment of Dalits.

I am grateful to Hon'ble Mr. Justice V.R. Krishna Iyer, former Judge of the Supreme Court of India who was kind enough to write a foreword for my book. I am thankful to SOCO Trust, particularly its Managing Trustee Mr. A. Mahaboob Batcha for providing me an opportunity to ventilate my ideas in print. Mr. P. Rathinam, Advocate and social activist, and Mr. R. Venkataramani, my learned Senior Advocate of the Supreme Court whose intellectual guidance influenced this work. I am aware that land reforms could be brought by the change in policy of the government which would be possible only by movement of the people. As part of mass mobilisation, this book is a small addition to the argument of our Constitutional makers that equal distribution of material resources is for the welfare of the entire society

**T. Lajapathi Roy**



## ***Publisher's Note***

Society for Community Organisation Trust (SOCO) has played a key role in presenting to the readers, books pertaining to socio-legal issues, ever since its inception. SOCO is once again privileged to add one more such book to its wide range of publications with Mr. T. Lajapathi Roy's work, "Atrocities Against Dalits and Relevance of Land Reforms".

Mr. Lajapathi Roy an eminent young lawyer within his own limits, a leftist thinker who gave up a lucrative practice in the Supreme Court to come to Madurai. A committed young lawyer Mr. Lajapathi Roy has been associated with SOCO Trust for the past twenty years having been trained in its arena. He is among the very few talented, spirited and committed lawyers, who are fighting for the rights of the weaker sections of the society in the Madurai Bench of the Madras High Court.

Mr. Lajapathi Roy has translated Ms. Arundhati Roy's works in Tamil and also other human rights documents which have been well received. Though young he is able to stand shoulder to shoulder with many senior advocates in the courts. An indefatigable fighter, Mr Roy is also a noted environmentalist and anthropologist with deep love for architecture. These interests had led him into many research endeavours.

We sincerely acknowledge our thanks to Mr. P. Rathinam, a lawyer, social thinker and activist who was instrumental for this work, Mrs. R. Sripriya, IAS., and Mr. G. Prabu Rajadurai, Advocate, Madurai Bench of High Court for their valuable suggestions, Mr. G.N. Babu of SOCO Trust, Ms. Vithyavathy Baskaran, Computer Operator, Mr. S. Balan @ Ramji S. Balan, who provided the photographs and also designed the cover and members of Vaigai Law Firm for their unstinted cooperation in making this much needed document a reality.

**P. KRISHNASWAMY**

**Secretary, Documentation Centre, SOCO TRUST**



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## **RELEVANCE OF LAND REFORMS AND ATROCITIES ON DALITS**

Untouchability is practised in many forms in India and Tamilnadu is no exception. In T. Shanmugapuram village at Toothukudi District in Tamilnadu, Hindus have imposed a dikat, barring Dalits from having male dogs to prevent the dogs of the Dalit colonies from mating with their female dogs. In many villages in Tamilnadu, Dalits are forbidden from keeping towels on their shoulders when ever they enter so called upper caste areas.

There are numerous instances of atrocities all over Tamilnadu including forcing Dalits to eat faeces in Thinniyam village in Trichy district, existence of double tumbler systems in villages where separate tumblers for Dalits and Hindus are used in tea shops, separate cremation and burial grounds for Dalits and Hindus, and prohibition of temple entries.

Atrocities on Dalits are not shocking to the people of Tamilnadu because it has become a routine. Untouchability is haunting Dalits even after death, affects rich and poor, it becomes an impediment for the career from a Peon to an IAS Officer. Till date, Dalits in Pappapatti and Keeripatti villages in Madurai District are struggling hard to enforce their democratic rights to become a president of the panchayat. Though the two constituencies are reserved for Scheduled Castes, the State is not able to enforce the Constitutional rights of the Dalits till date. In Sivagangai District, Dalits were not able to actively participate in the car festival in Kandadevi temple despite directions of the High Court.

There are serious inhuman atrocities on Dalits, whenever they cross the line of oppression and demand minimum self respect. Chennagarampatti and Melavalavu murders are painful examples. There are also state sponsored atrocities on Dalits. Kodiyanikulam attacks, Thamiraparani deaths, Seelayampatti attacks by police with the assistance of state machineries are sad reminders. All India scenario is no better, whenever there is a starvation death it is either a tribal or a Person from Scheduled Caste. From April to June 2004, 86 children died in Dharni and Chikaldhara Taluks of Amaravati District called Melghat region in Maharashtra. Every year at least 500 children die of malnutrition related causes, according to official records. The State Government has reported that 9000 children died since April 2003 in 15 tribal districts of the state. Tribals are starving since 1974 when Melghat was declared a tiger reserve, where the tribals are excluded from their livelihood and contractors were given freehand to collect the forest produce. Ironically, our Finance Minister proudly announced a defence budget of Rs. 77,000 crores for the year 2004.<sup>2</sup>

The infamous suicides by farmers in Andhra Pradesh were documented by Andhra Pradesh Rythu Sangam. From 14.05.2004 in a period of one month 279 suicides occurred in Andhra Pradesh not only in Telungana but also in water rich coastal Andhra and Rayalaseema. There is a strong element of land behind these suicides.<sup>3</sup> Farmers were trapped in debt bondage when they borrow money from private money lenders to pay the lease amount to the absentee landlords. National Commission on SC/ST recommended distribution of 50% of surplus lands to Scheduled Castes and Scheduled Tribes.<sup>4</sup>

The National Campaign on Dalit Human Rights demanded appointment of statutory Committees with experts to identify panchami



lands, appointment of special courts to remove the illegal occupants from the lands of Dalits. The campaign also demanded the reduction of ceiling limit of land ownership in the Land Ceiling Act and for a distribution of a minimum of 5 acres of cultivable land for each dalit household<sup>5</sup>. In an election campaign by Human Rights Forum for Dalit Liberation released in the name of Dalit manifesto, demanded separate ministry for redistribution of lands for Dalits and condemned the policy of Tamilnadu State assigning lands to private companies in the name of development of wastelands. In a seminar paper presented at Lal Bahadur Shastri National Academy of Administration pertaining to issues in the Development of Scheduled Castes considered the availability of land records as an essential requirement to enable distribution of land to Dalits.<sup>6</sup>

Our Society boasts of having several pioneering systems including child bonded labour system (comprising of mainly Children of God exploited by the privileged children of God). Bonded Labour System (existing almost throughout the history of India) Devadasi system (Hindu system of exploitation of women) and the list is not exhaustive.

In many districts in Tamilnadu whether it is discharge of effluents by marigold factory in Satyamangalam town or Shrimp farming, dalits some times remain as mute spectators and take the side of industry rather than the landowners, because they have no land to get spoiled, and their wages will be paid even after sunset by the industry, but not when they are serfs. Cauvery water demand in Tamilnadu would have been stronger if there are more marginal farmers rather than political and film star absentee landlords.

Today our Land Ceiling Acts make numerous exemptions and this non existing net is cast on the Land lords and like 'Emperor's new clothes', the Act is visible only in papers.



In Tamilnadu, every second child rescued as a child bonded labour belongs to scheduled caste community (Almost 64% of them). Their tales are almost same, landlessness, poverty, fight between parents because of poverty, parents throw the children to bondage knowing fully well that they are not rendering any service to their children but they know their child could atleast survive if not live.

This book deals with the relevance of land reforms to put an end to the atrocities on dalits, bonded labour system, child bonded labourers, trafficking of women, increase in crimes and many other social evils. Land reforms is a panacea to cure many social diseases. A fair discussion on the subject is yet to evolve, infact land reforms are not rudimentary, they are irrelevant only when our Constitution turns vestigial. At present, majority of our Land Reform Legislations are dishonest without any sting but provided with enough holes for sharks to escape. Justice Social, Economic and Political assured in our Constitution would be a mere dream if Land Reforms are not effected. Democracy will not survive if land reforms are not achieved.

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## **A PALACE BUILT ON COWDUNG**

Historically, we find almost everywhere an arrangement of society into various orders, a manifold gradation of social rank. In ancient Rome, there were patricians, knights, plebeians, slaves, and in the middle ages, feudal lords, vassals, serfs in almost all of these classes again, subordinate gradations. The modern bourgeois Society that has sprouted from the ruins of feudal society has established new classes and new conditions of oppression. "Scheduled Caste" is a Constitutional calligraphy for untouchable caste.

According to our former President Mr. K.R. Narayanan, the social challenge that Dr. Ambedkar posed transcended the confines of the specific and sizable section of the people known by the clumsy phrase "Scheduled Castes" and touched the basic structure of the cunningly stratified Hindu society based on conceptual as well as apportioned in equalities. He was one of those in our long history who had the courage to challenge the caste system in a fundamental sense and had the insight to trace to it the root cause of our downfall and the main obstacle to democracy and progress. In one of his speeches in the Constituent Assembly, he remarked with clarity that our political democracy erected on the inequalities and injustices of traditional Indian society was like "a palace built on cow-dung", and warned that unless these contradictions were removed those who suffer from inequality will blow up the structure of democracy which this Assembly has so labouriously built up, at the same time, he believed passionately in the possibility of bringing about social change and working a democratic system in India.

Scheduled Castes are placed outside the four Varnas in the Hindu Code and for this reason, they are also called as "Panchama",

Article 17 of our Constitution abolishes untouchability and forbids the practice in any form. However untouchability is systematically being used by the oppressing Classes to alienate Scheduled Castes from economically productive resources particularly land, cattle, Copper etc.

Hindu texts believe that if a Shudhra accumulates wealth he would cause trouble for Brahmins hence he is forbidden from doing so. A Shudra slave whether purchased or not can be compelled to do physical work by a Brahmin, because he is created in the earth only to serve the Brahmins.

In South Travancore till 1937, untouchable communities were not allowed to keep Cows, they could not raise their door level above five feet, cannot have tiled roof, should not possess Copper Coins, should not possess land, and women were not allowed to wear breast clothes! In some parts of India, Laws were enacted prohibiting untouchables from purchasing land. For instance, in the province of Punjab, the Land Alienation Act specified communities which could purchase Land and the Untouchables were excluded from this Category.<sup>2</sup>

A mere reading of the above list would suggest that Caste system is used for the economic suppression of untouchable communities. In Tamilnadu a particular community named "Puthiravannar" was considered to be unseeable community and members of such community were allowed to move out only during night.<sup>3</sup> The Honourable Supreme Court unearthed bitter truths and Historical Evidence in the case of State of Karnataka vs Appa Balu Ingale.<sup>4</sup> In that case the Supreme Court pointed out that Mahar tank was purified with Cowdung and Urine when Dr. Ambedkar drank water from it.



In the name of practice of untouchability Scheduled castes were denied access to basic necessities of life inter alia, land, water, dignified employment etc, in the famous book "Unhappy India" Lalalajapatrai places the status of scheduled castes high above the position of slaves in America before the abolition of the slavery. However Dr. Ambedkar's fitting reply demythify the Indian belief that slavery is worse than untouchability, he meticulously explained that no one can escape untouchability whereas one can earn his or her freedom in the slavery system as it existed in USA. Infact, Scheduled Castes suffer slavery coupled with untouchability. 'Recent studies show that even in cases of drought relief measures Scheduled Castes were removed of their slender resources and the very programmes which are intended to enrich the Scheduled Castes relieve them their resources. <sup>6</sup>

### **Land - Light at the End of Dark Tunnel**

Land is an important resource which is always considered as vital for livelihood. Nobel laureate Pearl S. Buck's. *The Good Earth*, illustrates the intertwined relationship between the human beings and land. The author places God and rich alike, both have no concern for poor. The famous quote in the *Good Earth*. "The hearts of these rich are hard like the hearts of the gods. They have still rice to eat and from the rice they do not eat they are still making wine while we starve". In India, untouchability and landlessness are inseparable, it runs like rekhas throughout India from Kashmir to Kanyakumari, Gujarat to Orissa. In fact untouchability is the strongest unifying factor in India, it is a symbol of Indian National Integration.

Property rights decide the form of Government. Contrary to the popular belief that equal distribution of land is a Socialist idea, is infact adapted by capitalist model states much earlier, even prior

to the publication of Communist Manifesto in 1848. Immediately after the American Declaration of Independence in 1776 the land system that had grown up under British inspiration and after the model of England was completely transformed.<sup>7</sup> Large estates were confiscated and then distributed in small lots. Japan had also realised the importance of Land reforms, but had resorted to less confronting recourse by purchasing the surplus lands with state funds and thereafter distributed the same. The first directive principle to the state in Communist Manifesto was expropriation of property in land and application of all rents of land for public purpose.<sup>8</sup>

### **Land Reform in England**

In England, one of the guarantees forced from King John in 1215 by Magna Carta was that religious bodies, which had been accumulating lands at a rate that alarmed the barons would not be allowed to acquire more. At the same time, the burdens imposed to tenants were somewhat relaxed by more clearly defining their obligations to their feudal lords. Among the many clashes caused by the demand for land reforms were the peasants revolt led by John Ball and Wat Tyler in 1381, the rebellion led by Robert Ket in 1549 and the quickly suppressed uprising of 1830.

The Agricultural Holdings Act 1948, was the linear descendant of a series of statutes beginning with the Agricultural holdings (England). Act 1875 designed to protect farm tenants. Each successive Act conferred a greater degree of protection. The principal features of the Act of 1948 (which in general prevails notwithstanding any agreement to the contrary) are as follows. All agricultural tenancies continue until determined by a year notice to quit expiring at the end of a year of the tenancy. If within a month of receiving a notice to quit the tenant serves a counter notice claiming the protection of this Act.



In most cases, the notice to quit becomes invalid unless the minister for agriculture allows it to remain effective and he can do this only on certain limited grounds. If the tenancy is determined, there are elaborate provisions for securing compensation to the tenant for improvements effected by him, while the landlord may claim compensation if the holding has deteriorated in the hands of tenant. The parties are free to agree upon whatever rent they please but not more frequently than once in every three years either party may refer the amount of the rent to arbitration.

### **Land Reform in former Soviet Union ( USSR)**

Subsequent to revolution of 1917 November all pre-revolutionary laws were abolished. Land became the property of state and could not be the subject matter of private commerce. Possession of land is permitted only on the basis of right of enjoyment.

But in 1948 by a decree a Soviet citizen is permitted to own a residence of 1-5 rooms. The land upon which the building stands remains in the ownership of the state, and the owner must occupy the residence personally. The underlying principle is that no profit may be made by anyone out of the letting of land or buildings.

In 1990 under President Gorbechev's policy of Prestroika or Reconstruction, private ownership of land is allowed to some extent. Still the fetters on land by the state is not completely relaxed. Land if owned for ten years or more then ownership may be allowed by the state. But the land can be sold only through state.

### **UN view of land reforms**

Land reform has been defined by the United Nations as "an integrated programme of measures designed to eliminate obstacles

to economic and social development arising out of defects in the agrarian structure” for greater precision agrarian structure as used in that definition is itself defined as “a complex and inter connecting set of relationships between tenure structure, production structure, and the structure of supporting services”.

## **Indian Situation**

The much publicised Bhoodan Movement was an attempted Gandhian answer to the Marxian equation on land. Bhoodan Movement was launched on April 18, 1952 from Pochampalli, a village in Telengana which was the hot bed of peasant struggle.<sup>9</sup> One of the most discussed subject in the Supreme Court is the rights pertaining to landed properties. In a agricultural society like ours, land plays a central role in the well being of the family. It acts as a food source, it is a device to determine the class hierarchy, would act as insurance during financial emergencies, it is a capital and so on. It is not surprising that the communities who were deprived of the land were placed in the last of the social ladder and therefore restoring the precious object would bring back social equality.

In the re-structured 20 point programme in 1986 during seventh plan, the fifth programme was aimed at enforcement Land Reforms. It demanded

- i Complete compilation of Land Records
- ii. Implementation of agricultural land ceilings
- iii. Distribution surplus land to the landless.

In fact one of the problem of Indian growth is unequal distribution. If some parts of body is well grown and other parts are retarded, we call it a disease. The same thing happened to Indian growth. In 1950, India produced 51 million tones of food grain and



today we produce close to 200 million tones. It is true that in 1995 the state granaries were overflowing with 30 million tones of surplus grain. It's also true that at the same time, forty percent of India's population, more than 350 million people were living below the poverty line. As Arundhathi Roy painfully states that Indians are too poor to buy the food their country produces. Indians are being forced to grow the kinds of food they cant afford to eat.

In Kalahandi District in Western Orissa, best known for it's starvation deaths in 1996 according to the slate 16 people died of starvation and according to the press it is more than 100. Yet that same year, rice production in Kalahandi was higher than the national average. Rice was exported from Kalahandi District to the centre!<sup>0</sup>

According to Mr. B.C. Joshi Land Reforms lead to food empowerment of common man and it greatly reduces the dependence on food related consumer products!<sup>1</sup>

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## **LAW AND ORDER AND LAND**

Rioting and unlawful assembly have been of frequent occurrence in India. During preconstitutional days systematic studies were made by Criminologists who found most of the riots were due to agrarian disputes. Most of the 588 riots in Bengal in 1917 and 470 riots in Bihar and Orissa in 1920 were directly caused by disputes about land. Mr.S.M. Edwardes, a popular Criminologist mentions that Crime usually tends to be heavy whenever the cultivator of land is removed from the Proprietorship!

In the days of freedom movement, the Champaran struggle in Bihar in 1917 organised under the leadership of Mahatma Gandhi was in protest against an unjust tenure system adopted by indigo planters. In Kerala the Movement against the tyranny of landlords led to peasant revolt and 100 activists were killed at Punnapara Vayalar. The Tehbhaga Movement of Bengal, fought in 1946 - 47, focussed on one of the major demands of the share croppers, that they should be given two thirds of the crop, the landlords should not make undue deductions from the produce before it's sharing and the sharing be done in the barn of the share cropper and not in the Courtyard of the landlord. The Movement instructed the share croppers to take the crop to their own barns, and to fight the muscle men of the landlords when they come to seize it. The demands articulated by the movement was supported by the report of the Flood Commission in 1940 which criticised that the share to the landlord as rent too high, the report further commented that this system overrides the principle that the tiller of the soil should have security and protection from rack renting. The agitation snowballed when the tillers claimed that "he who tills the land owns the land". The struggle resulted in seventy deaths.

The Bargadar Act 1950 was the Major outcome of the Tehbhaga Movement. In Tripura where Upjati Ganamukthi Parisad associated with AIKS India Kisansabha Mobilised tribal peasant struggles against alienation of land and encroachments on the rights of the Thumias or shifting cultivators. In Telungana, peasant movement commenced in 1946 and continued upto 1951. The immediate issue was the oppression of the landlords and the deployment of hired armies by the Nizam to intimidate the tenants. But later on, the main demands of the struggling forces became the abolition of forced labour '(Vetti), stoppage of illegal extractions, seizure of land illegally taken over by the landlords, burning land records, seizure of government waste lands, imposition of Ceiling at 10 Acres of Wet land and 100 Acres of dry land on the landlords. At the peak of the struggle an army of 2000 Peoples Militia were formed and 10,000/- volunteers guarded the village 10 lakh acres of land were forcibly taken and redistributed among landless. However when the Telungana Movement was withdrawn after the Nizams domain annexed with India, 4000 people were killed and 10,000 were failed for the periods between three and four years by the armed action of the Indian Government.<sup>2</sup>

In 1967 activities of a group of extremists who later came to be called as Naxalites started in West Bengal as a violent movement for the forcible occupation of the land of Jotedars in Naxalbari. One of the well drafted report of the National Police Commission popularly called as Dharamveer Report discusses the agrarian problem in it's report in an entire chapter. The police Commission worried about the land conflicts and social frictions which cannot be handled by police except with the long term relief of agrarian reforms.<sup>3</sup>

The State land policy as laid down in the First five year plan and in the subsequent plans were to eliminate elements of exploitation



and social injustice within the agrarian system so as to provide a sound basis for the evolution of a democratic society in the rural areas. In the fourth five year plan the emphasis was on all out support for the new strategy of production in agriculture by ensuring complete security for the tenant and the share cropper and enabling him to participate effectively in the agricultural production programmes, and by making concerted efforts towards enforcement of Ceilings on land holdings.

It may be mentioned here that one of the major issue or the Bone of contention between haves and have nots is land issue. In a preconstitutional study made by Warren Hastings in India found that the Crime rate surges ahead during crop failures and goes down during good harvests while the agitations in the earlier period were mostly in the form of resistance to tyranny and oppression; the agitations towards the close of the British rule and after independence have tended to focus around the tillers right to own the land and to be freed from exploitative practices that have prevailed in the rural areas for a along time.

These agitations have tended to become increasingly violent. Large scale riots, accompanied by arson, violence and murder have been witnessed in certain states in the recent past, reflecting the growing tensions between depressed landless rural poor and land owning farmer community. Incidents at Kilavenmani in Tamilnadu, Belchi, Parasbigha and Pipra in Bihar are instances of this violence.<sup>5</sup> In Kilavenmani in Tanjore District of Tamilnadu 44 persons belonging to Scheduled Castes including 20 women 19 children and five men were burnt alive inside their huts for demanding a fair wage which was counteracted by the killing of the Landlord after his acquittal in the Criminal case<sup>6</sup> In 1992 at Channagarampatti Village in Melur Taluk of Madurai District two persons belonging to Scheduled Caste

were murdered for having participated in a public auction of temple lands to cultivate the same, and both successful highest bidders were killed by Caste Hindus who traditionally hold the lands without any competition from the real cultivators, the Scheduled Castes.<sup>7</sup> It could be said with certainty that land crisis and crime rate are directly proportionate.



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## OUTLINE OF LAND REFORM LEGISLATIONS

In many states land reforms legislations were enacted to secure the following.

1. Abolition of Intermediary tenures.
2. Reform of Tenancy system including.
3. Ceiling on hand holdings
4. Resettlement of landless agricultural workers.
5. Consolidation of fragmented holdings and reorganisation of the small farm economy.

However in the actual implementation of the land reform legislations several loopholes were taken advantage of by vested interests to perpetuate the existing inequities. The relaxation of Ceiling limits for Charitable trusts, joint families, companies, and plantations excluded large tracts of lands outside the scope of Land Ceiling Acts. The land owning community retained large tracts of land under their effective control under the guise of resuming land for self cultivation for this purpose was deemed to include cultivation through hired labourers. The law of Ceiling on land holdings by individuals was effectively circumvented by the Partitioning of landed property among the members of the same family and dependent relatives with the result that no land emerged as surplus for disposal outside the family domain.

According to the twenty sixth round of national sample survey 54.91% of households in the country owned land of area less than 1 Acre per household and the total area owned by them constituted 2.21% of the total area of holdings in the country while 4.38% of the



households held areas of more than 15 acres each and the total area held by them amounted to 39.43% of the total area of holdings in the Country.

The report of the Task force on a agrarian relations set up by the planning Commission for appraising the problems and progress of land reform stated that the attitude of bureaucracy towards the implementation of land reform is generally lukewarm and often apathetic. This is of course, consequential because as in the case of the men who wield political power, those in the higher echelons of the administration also are substantial landowners themselves or they have close links with big land owners. The village functionaries like Patwaries, Karnama Samogs, Talatis etc., are in variably petty land owners. No state has taken necessary steps to forge a suitable administrative organisation and keep it in periodic orientation courses except in West Bengal to certain extent which has a separate department for land reforms and an institute for land reforms at Laboni in west Midnapur district, nor has any conscious effort been made to post able and dedicated persons with faith in land reform to key positions in the administrative setup.

As a matter of fact there have been cases where administrators who tried to implement land reform lands honestly and efficiently were hastily transferred elsewhere. In the result practically in every state, the administrative organisation has proved to be inadequate instrument for the speedy and efficient implementation of land reforms.<sup>1</sup>

### **Re-Distributive Attempts to Scheduled Castes by some states**

In Karnataka the area estimated to the surplus under the Ceilings provision was four lakh acres but are actually declared

surplus was 1.29 lakh acres of this 74, 153 acres were taken possession and 44,540 Acres were distributed among 8,565 beneficiaries by the end of 1980. This gave an average of 5.2 Acres per beneficiary against 1.43 Acres for the country. Incidentally, this is the highest figure any state in India could reach at that time. Of the total land distributed Scheduled Castes received 22,990 Acres getting a share of 51.6%.<sup>2</sup>

According to the 28th Report of the Commissioner of the Scheduled Castes and Scheduled Tribes the total area declared surplus was 2,95,950 acres and areas taken possession of as on July 1987 was 1,52,891 acres. The actual area distributed was 1,14,695 acres among 26,437 beneficiaries. The number of Scheduled Caste beneficiaries was 15,258 accounting for 57.5 percent of the total number of beneficiaries. The area of land distributed among them was 59,629 acres out of 1,14,695 acres. This meant that 52 percent of the distributed land was received by the SC beneficiaries each of them getting 3.91 Acres of land.

### **Beneficiaries of surplus ceiling land and Scheduled Castes in Karnataka till July 1987**

#### **Category of Land**

	<b>Scheduled Castes</b>	<b>Others</b>
1. Cultivable irrigated	52.2%	47.8%
2. Cultivable Unirrigated	54.9%	45%

In Maharashtra the Maharashtra Agricultural Land (Ceiling and Holding) Act was enacted which came into force with effect from 26.01.1962. The implementation of Land Reforms in Maharashtra till March 1994 presents the following information.



### **Maharashtra Land Distribution till March 1994**

a.	Total number of returns filed till March 1994	.09 lakhs
b.	Land declared surplus	2.85 lakhs
c.	No. of beneficiaries	1.45 lakhs
d.	No. of Beneficiaries from SC/ST	1.24 lakh.

In West Bengal according to the Government Report till 30th June 1992 a total of 12.69 lakh acres of agricultural land are declared surplus of which 9.36 lakh acres were distributed among 20.43 lakh beneficiaries.

### **Percentage of SC/ST Beneficiaries in West Bengal till 30.06.1992**

	Total	S.C	Others
i.	Distribution of 19.18%	20.43 lakhs	37.20%
ii.	surplus lands	(7.60 lakhs)	(3.92 lakhs)
	Home Stead	2.58 lakhs	41.8%
	15.50%		
	Distribution	(1.08 lakhs)	0.40 lakhs

In Andhra Pradesh after the Land Ceiling Act in 1973 declarations were filed and 20 years after the filing of declarations 7.95% Lakh Acres were declared surplus out of which an area of 5.94 lakh acres were actually distributed to agricultural labourers and landless.

**Area distributed to individual beneficiaries  
in Andhra Pradesh till 30.09.1996**

Sl.No.	Category of No. of Beneficiaries	Area in Acres Beneficiaries
1	SC 216837	226890
2.	S.T. 61228	118635
3.	B.C & others 223498	226336
4.	Area allotted for public purpose  521563 (18)	22671  594352

In India persons belonging to Scheduled Castes by and large operate relatively small size holdings and studies reveal that marginal and small holdings constituted 74.5 percent of the total holding and accounted for only 26.2 percent of the area. Access to land operated declines in the case of Scheduled Castes as the size of class of land increased.<sup>3</sup>



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# SLAVERY IN CHENGALPATTU

The indigenous agrarian system that was prevalent in the Chengalpattu region near Chennai in Tamilnadu during Precolonial period was known as the Kaniatchi system. Under this system, the original settlers in any village, known as Kaniatchikarars controlled the entire resources of the Village, which included arable lands, grazing grounds, waste lands, homestead, irrigation tanks, temples, cremation grounds and roads. Most of the Kaniatchikarars, who exercised such complete control over the landed resources in the region belonged to two uppercastes. The Brahmins and Vellala Mudaliyars.

According to Lionel Place's report of 1789 these two castes accounted for 80 percent of the Kaniatchikarars. The village produce was proportionately shared by each Kaniatchikarar in accordance with his share of Kaniatchi right Land was also periodically redistributed among Kaniatchikarar so that each can obtain both good and bad land in turn. Sale and purchase of Kaniatchi shares were mostly restricted to the Kinship relations of the Original Kaniatchikara and in consequence among the Brahmins and Vellala Mudaliars themselves. Very rarely the shares were sold to cultivators because it required the approval of the entire clan of upper caste Kaniatchikarars.

Next came in the hierarchy of Kaniatchi regime were the cultivators or Payirkarar. They had the right of cultivation granted to them by the Kaniatchikarar. The Payirkarar paid Swamibogam the proportion of output to Kaniatchikarar, the said output varies from a fair proportion in case of Purakudi Payirkarar (non resident cultivator) and Ulagudi Payirkarar (resident cultivator) and Ulagudi Payirkarar were drawn largely from the middle ranking non Brahmin Castes



such as Pallis or Vanniyars who had the possibility of upward mobility including purchase of Kaniatchi shares. The third major group in the Kaniatchi hierarchy were the artisans, barbers, blacksmith and Carpenters, who were rewarded through land grants (Manyams) or a fixed share of Village harvest or both, following them at the bottom of the hierarchy were the slaves. They were locally known as Adimai. The Kaniatchikarars had the right of buying, selling and pledging the slaves. Slaves did not have any right to the soil. A whole family unit purchased as slaves was called Cootoo adimai. The slaves are drawn from the members of the untouchable caste. While in the case of Chengalpattu district were exclusively the Parayars.

Though the region was ruled by different royal formations such as Cholas, Vijayanagar Empire, and Mughals, the Kaniatchi System retained its basic structure and hierarchy. The Mughals to begin with did not recognise the privileges of Kaniatchikarars however they soon became dependent on them to collect land revenue. However during this period the system got the name Mirasi. Though the nomenclature changed from Tamil to Persian, the status of the untouchable communities continued as labour slaves.

In 1760 the British obtained a major part of Chengalpattu District as Jagir or estate from Nawab of Carnatic and leased it back to the Nawab for 20 years. Only in 1793, the region was brought under a single collector subsequently the efforts to introduce ryotwari tenure was met with stiff resistance. Thereafter modified ryotwari settlements were introduced which acknowledged the privileges of the Mirasidars over village waste lands. The Upper Caste Mirasidars used this privilege basically to keep others out of land ownership. The Scheduled Caste agricultural labourers were kept in a state of slavery. In the early decades of 19th Century the British Officials endorsed and reinforced the system District

Collectors ordered the recapture of runaway slaves and their return to their landlords. They further suggested that police should be deployed to ensure that slave labourers worked for both the Government and for the Landlords. The colonial law courts too recognised it as the right of the landlords to sell or mortgage their slaves for instance in 1836, the Magistrate of Chengalpattu affirmed the right of a landlord to sell or mortgage his *adimai* when the modified ryotwari tenure was introduced individual owned depressed class slaves.<sup>1</sup> The abolition of slavery in 1843 by the British did not out law the holding of slaves on punishment. It in derecognising slavery only banned the public authorities from restoring the runaway slaves to their masters. However in 1859 Breach of Contract Act was enacted which forced labourers back to their Masters even when contracts were signed under duress of debt.

The system of slavery turned into debt bondage in 19th Century where the slaves became Padiyals or attached labourers. These Padiyals mortgage themselves to their Masters for 10 or 15 rupees to pay a debt or for marriage expenses? Between 1916 - 1918 a survey of depressed classes carried in 98 villages of Chengalpattu District by J. Grey, it brought out the fact that in 71 villages all the Padiyals were exclusively Parayar and in 16 villages the majority of them are Parayars, and they were living in hardship, because of the seasonal nature of employment.

From 1950 onwards the land owners evicted their tenants from their lands apprehending that an effective land reform would benefit the tenants. Different share cropping arrangements were made with cultivators locally known as "Varam" under the Varam arrangement a share cropper was to pay 50 percent of the harvest to the landowner who, under the system did not share any cost of cultivation. Under the *kudivaram* arrangement the share cropping



## **BONDED LABOUR SYSTEM (ABOLITION) ACT 1976 AND SC/ST PREVENTION OF ATROCITIES ACT 1989**

The Bonded Labour System Abolition Act 1976 abolishes the system. A bonded labour system exists, when a person is compelled to work for another for a definite or indefinite period for no wage or nominal wage or in return for an advance received in Cash or kind in fulfillment of an earlier oral or written agreement between them. Under Section 6, of the Act the Bonded Labourer is by no means to repay any bonded debt to his creditors. It bars the creditors from filing any suit for the recovery of the debt. The offences under the Act are punishable by way of imprisonment upto 3 years and also with fine upto Rs. 2000. The State Government is authorised to confer powers and impose duties on District Magistrates to ensure effective implementation of the provisions of the Act. The District Magistrate is authorised to appoint an officer subordinate to him / her and delegate to him all or any of his powers and duties.

In *Bandhua Mukhthi Morcha Vs. State of Tamilnadu and others* in W.P. No.574 of 1986, the Supreme Court appointed three eminent persons as Commissioners. The Commissioners after studying the plight of Bonded Labourers in Kodaikanal forest coupes who comprised mainly of Scheduled Castes from Srilanka repatriates recommended two main things as rehabilitation measures.

- i. Allotment of land to extent of 2 Acre land per family.
- ii. Allotment of house to each family.<sup>1</sup>

To ensure that the freed bonded labourers not to return to bondage the Court directed the state to provide lands and the freed

bonded labourers are settled at Gundupatti village in Kodaikanal. The Honourable Supreme Court observed. "The problem of bonded labour does not end with identification and release from bondage. Rehabilitation and resettlement of illiterate Harijan Labourers who have known no other way of life except that of bondage for several generations is a painful and difficult process. Recent study on released Bonded labourers from 2001 to 2003 shows that 64% of them belong to Scheduled Castes.<sup>2</sup> In Tamilnadu the released bonded labour is provided Rs.20,000/- (Twenty thousand) as relief amount and small level rehabilitation schemes like providing milch cows, petty shops etc. But none proved effective like providing land in Gundupatti Bonded Labour settlement.

The question of Land Reforms was considered seriously when three member team of SOCO Trust Mr. R. Alagumani, Mr. A.K. Babulal and S. Francis Xavier two lawyers and the third one a post graduate social worker were sent on a mission by the Managing Trustee of SOCO Trust Mr. A. Mahaboob Batcha to find out and rescue bonded labourers in Andhra, Orissa, Uttar Pradesh and other bonded labour potential states. There were numerous complaints from the parents of missing children and in some cases parents voluntarily despatched their children to far away places on assurance of fat salary and three square meals a day. After the children's departure no more will be heard from them and the trafficked children live in bondage.

SOCO Team crisscrossed many states and formed batches of child bonded labour almost in every town and cities. With the limited resources and able assistance of the then Bonded Labour Commissioner Mr. P.W.C. Davidar, IAS, they could rescue about 200 child bonded labourers within a span of three years. Children were kept under bondage and the only incentive they got was lashes



with cable T.V. wires and insufficient gruel which they have to cook every morning. Many times, employers who belong to backward classes practice untouchability on the child bonded labourers who belong to mostly scheduled castes. However employers do not feel any shame in living out of the sweat of untouchables. Many questions remain unanswered, what the child bonded labourers do after outgrowing their bondage, once they attain the age of majority and they are no longer obedient slaves. Oscar wild's, vilest deeds like poison weeds bloom well in prison air" can be modified a little it could bloom well in dark rooms of bondage too."

### **Schedule Castes and Scheduled Tribes Prevention of Atrocities Act 1989:**

The SC/ST POA Act made important provisions regarding rehabilitation of victims of atrocities by providing land. The 1995 Rules framed under the Act provide for effective rehabilitation of the victims. Under section 3 of the Act whoever wrongfully occupies or cultivates any land owned by or allotted to a member of Scheduled Caste or dispossess a member of Scheduled Caste from his land is punishable upto five years and not less than six months<sup>3</sup>. There are some important provisions under the Act like imposing of collective fine against a whole village or community to prevent the atrocity against Dalits. Punishments like externment are provided under the Act, but seldom used.

The salient feature of the Act is the rehabilitation and relief to the victims which are unique in a penal legislation, moreover under section 4 of the Act any public servant not being a member of SC/ST wilfully neglects his duties required to be performed under the Act shall be punishable for a term not less than 6 months but may extend to one year. The provisions of the SC/ST POA Act 1989 and 1995 Rules framed under it can be effectively utilised to prevent further deprivation of lands from Scheduled Castes.

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## PROPERTY RIGHTS AND THE SUPREME COURT

In the Constituent Assembly debates the fundamental right to property was placed in Article 13 (f) of the Draft Constitution which provided the right to acquire, hold and dispose of property. During the debates Mr. Seth Govind Das said “I do believe that unless private property is abolished there cannot be peace. It is a historical fact that of one time man devoured man. In the epochs of slave trade respectability was judged by the number of slaves one had. Today the Capitalists are characterised by our society as plunderers and dacoits. I hope that is time to come Articles concerning property will not find a place in the Constitution. (8-A). Mr. Seth’s prophecy was half proved when right to property was scrapped from the list of fundamental rights in Article 19 (a) during 44th Amendment and kept in Article 300-A of the Constitution.

The right to acquire and hold property was assured as a fundamental right in sub clause (f) of clause (1) of Article 19 which was omitted by the 44th Amendment Act in 1978 during Janata Party’s regime, but by the some amendment the right to property was listed as Article 300 A which provided that no person shall be deprived of this property except by authority of law. There was a long feudal road to Article 300A. When land reform legislations were introduced in the interest of masses, the land legislations were opposed by land owners on the ground that the compensation provided under the Acts were inadequate. To meet the challenge Articles 31-A and 31-B were introduced by the first Amendment Act to protect the land reform legislations.

Prior to the first Amendment there were several decisions of the Supreme Court including A.K. Gopalan’s case where the

preventive detention law was upheld without a whisper and it was the first nail on the equality and right to life guaranteed under Article 14 and 21 of the Constitution and in *Champakam Dorairajan vs State of Madras*, the reservation for socially and educationally backward classes of citizens was struck down. By way of First Amendment Ninth Schedule was added in the Constitution to ensure the Land reform legislations beyond challenge on the ground that it affects the fundamental rights guaranteed in Articles 14, 19 and 31. A new clause (2) was added to Article 15 which empowers the state to make special provisions for advancement of the socially and educationally backward classes of citizens to neutralise the ill effects of *Champakam Dorairajan's* case.

In *State of Bihar vs Kameswar*<sup>1</sup> the Supreme Court held that though Articles 31-A and 31-B were inserted in advance to shield any attack on Zamindari Abolition Act, it did not prevent the attack on the ground that the compensation provided under the Act was so inadequate and illusory. Thus the Supreme Court championed the cause of zamindars despite legislatures's fragile attempt to eradicate the same.

In 1954, the Supreme Court held in *Bela Banerjee's* case<sup>2</sup> that the expropriated owner must be "fully indemnified" by paying the owner the full market value of the property as it stood on the date of the acquisition, thus the Supreme Court had given a new meaning to the word 'expropriation'. The fourth Amendment of the Constitution was passed in 1955 to remove the difficulties in *Bala Banerjee's* case. So the amended article 31(2) provided that no such law shall be called in question on the ground that the compensation provided by that law is not adequate.

The interference of the courts with the laws of acquisition on the question of quantum of Compensation continued un arrested



because the court said in Cooper's case<sup>3</sup> that notwithstanding the amendments made by the fourth amendment Act the court would demand the equivalent of money to the property compulsorily acquired. The courts interpreted the word compensation in Article 30(2) as full compensation. The twenty fifth Amendment was carried out in 1971 to remove the difficulties by Cooper's case. It amended clause (2) of Article 31 and substituted the word amount for the word compensation. It added a new clause 2 A which made it clear that the deprivation of law passed under Article 31 cannot be challenged on the ground that it infringe rights guaranteed in Article 19 of the Constitution. Moreover Article 31 was inserted which provided that the law passed for giving effect to the directive principles specified in (b) and (c) of Article 39 cannot be challenged on the ground that it is inconsistent with or takes away or abridges any of the right guaranteed in Articles 14, 19 and 31.

The 25th Amendment came up for review in the full bench of the Supreme Court in *Kesavananda Bharathi's Case* (literally full bench of 13 judges) by majority held that courts could still interfere if the amount fixed was illusory. The Janata Government sought to abolish the Constitutional requirement for the payment of compensation and drafted the 45th Amendment Bill which provided that there was no obligation in the Constitution and no fundamental right for providing any Compensation or any amount but the Bill did not transform into an Act. A mere reading of the initiatives by the legislature and the courts would show that in the game of hide and seek between the two pillars, the property owner is always the winner. The property owners rights were not affected by any amendment and ultimately the legislature has given up its efforts to create an egalitarian society.

In the famous contempt of court case *P.N. Duda vs P. Shivshanker and others* 1988 (3) SCC 167. Mr. P. Shivshanker

who was formally a high court judge and at the relevant time was a Minister for Law, Justice and Company Affairs delivered a speech at a seminar on Accountability of the Legislature, Executive and Judiciary organised by the Bar Council of Hyderabad on 28th November 1987. In his speech, he stated,

“The Supreme Court composed of the element from the elite class had their unconcealed sympathy for the haves i.e., the Zamindars. As a result, they interpreted the word ‘compensation’ in Article 31 contrary to the spirit and the intendment of the Constitution and ruled the compensation must represent the price which a willing seller is prepared to accept from a willing buyer. The entire programme of Zamindari abolition suffered a setback. The Constitution had to be amended by the 1st, 14th and 17th Amendments to remove this oligarchic approach of the Supreme Court with little or no help. Ultimately, this rigid reactionary and traditional outlook of property, led to the abolition of property as a fundamental right”.

However, the Supreme Court declined to initiate contempt proceedings against Mr. P. Shivshankar and had dismissed the petition filed by Mr. P.N. Duda.

In Narmadha Bacho Andholan<sup>5</sup> case the Supreme Court refused to restrict the height of the Narmadha dam resulting in large scale flooding of the lands of thousand of tribal communities which they were enjoying for several hundreds of generations on the ground that the court would not interfere with the policy of the government.

However, the Supreme Court took note of an Article by Arundhati Roy which is also published as a book titled as “The Greater Common good”. Wherein the policies of the government was criticised by the author. She stated “according to the Land



Acquisition Act of 1894 (amended in 1984) the Government is not legally bound to provide a displaced person anything but a cash compensation. Imagine that. A cash compensation to be paid by an Indian government official to an illiterate tribal man (the women get nothing) in a land where even the postman demands a tip for a delivery! Most tribal people have no formal title to their land and therefore cannot claim compensation anyway. Most tribal people - or let's say most small farmers - have as much use for money as a Supreme Court Judge has for a bag of fertiliser." However, though the Supreme Court expressed its anguish over the remarks the Court cautioned that the said remarks undermined the dignity of the court.

It is not out of context, to quote the case of EMS Namboodripad vs T. Narayanan Nambiar.<sup>6</sup> Wherein certain remarks made by the then Chief Minister of Kerala during a press conference attracted the contempt jurisdiction of the court. Mr. Namboodripad remarked that "his party had always taken the view, that the judiciary is part of the class rule of the ruling classes. And there are limits to the sanctity of the judiciary. The judiciary is weighted against workers, peasants and other sections of the working classes and the law and the system of judiciary essentially serve the exploiting classes. Even where the judiciary is separated from the executive it is still subject to the influence and pressure of the executive. To say this is not wrong. The judiciary he argued was only an institution like the President or Parliament or the Public Service Commission. Even the President is subject to impeachment. After all, sovereignty rested not with anyone of them but with the people. The judge is subject to his own idiocrasies and prejudices. "We hold the view that they are guided by individual, guided and dominated by **class interests, class hatred, and class prejudices.**" In that case, the Supreme Court confirmed the conviction of one month simple imprisonment and reduced the fine from Rs.1000 to Rs.50.

In *State of Kerala & another vs The Gwalior Rayon Silk manufacturing co. Ltd.*<sup>7</sup> the Kerala Private forests (vesting and assignment) Act 1973 was enacted and it deprived owners of vast extents of private forests. The said owners challenged the Act. The High Court upheld the challenge and voided the statute. The Constitution Bench of Supreme Court reversed the judgement of the High Court and allowed the appeal by the state. Justice V.R. Krishna Iyer in the concurring judgement along with J. Bhagwati observed that “the concept of agrarian reform a complex and dynamic and, providing wider interests than conventional reorganisation of the land system or distribution of land. It is more humanist than mere land reform and scientifically viewed, covers not merely abolition of intermediary tenures, zamindaris and the like but restructuring of village life itself taking in its broad embrace the socio-economic regeneration of the marginalised population. The Indian Constitution is a social instrument with an economic mission and the sense and sweep of its provisions must be gathered by judicial statesmen on that seminal footing. He further observed that the elimination of ancient janmam rights per se be regarded as possessing the attribute of agrarian reform to wipe out feudal vestiges from our countryside are preliminaries to the projection of a socialistic order which part IV and Article 31-A of the Constitution strive to create.

In *State of Punjab and others vs Amarsingh and another*<sup>8</sup> while interpreting the provisions of Punjab Security of Land Tenures Act 1953 and allowing the appeals by the state. The Supreme Court observed that “The legislature, charged with Constitutional mandate of Article 38 and Article 39 has passed the Act and amended it from time to time in furtherance of the major purpose of distributive justice. The judicial wing of the state, viewing the law in the same wave length, interprets and applies. But the executive instrumentality of the state has as activist role to play. If the arm of the law were not



to hang limp and social justice is not to be cynical phrase. Good laws and correct interpretations are not enough. Quick, conscientious and public minded enforcement of the provisions is the responsibility of government and its officers. We expect that this land reform measure will not be a slow motion picture but a strict and swift procedure.”

In Krishna Chandra Gangopadhyaya & others vs Union of India and others <sup>9</sup>the Supreme Court while upholding the legislative competence in enacting Bihar Land Reform Laws (Regulating mines & minerals) validation Act 1969 ruled that in interpreting the statutes the court in its comity with the legislature strives reasonably to give meaningful life and avoid cadaveric consequence. The Court may be informed by a realistic idea of shortfalls in legislative drafting and of the social perspective of the statute but guided primarily by what the Act has said explicitly or by necessary implication examine the meaning and its impact on the contention argued against it.

In Maharaj Singh Vs State of Uttar Pradesh and others <sup>10</sup> where by the enactment of U.P. Zamindari Abolition and Land Reforms Act 1950, the right, title and interest of all intermediaries in every estate including hats, bazaars and Melas stood terminated and the whole bundle of interests are vested with the state. It was held that state could file an appeal and the claim that *guan sabha* alone was the competent person to file the appeal was negative. The court held that ‘locus standi’ has a larger ambit in current legal semantics than the accepted individualistic jurisprudence of old. The legal dogmas of the quiet past are no longer adequate to assail the social injustices of the stormy present. It was further said that the goal of the legislation must make its presence felt while the judicial choice of meanings of words of ambiguous report or plurality of significations is made. To be literal or be blinkers by some rigid cannon of construction may be to miss the life of law itself.

In *Balakrishna Somnath Vs. Sadu Devram Koli*<sup>1</sup> the Hon'ble Supreme Court took note that landlords resort to cute agrarian legal engineering to circumvent the provisions. However the court declined to accept the claim by the landlord and dismissed the appeal.

In *Dattaraya Govind Mahajan and others vs State of Maharashtra and another*<sup>1 2</sup> the Supreme Court upheld the Constitutional validity of Maharashtra Agricultural Lands (Ceiling of Holdings) Act 1961 as amended by Act 47 of 1975, U.P. Imposition of Ceiling of Land Holdings Act 1971, and Punjab Land Reforms Act 1972. It was the Constitution Bench which held that the intention of the legislature is paramount and mere use of a label cannot control or deflect such intention.

Justice V.R. Krishna Iyer while delivering a separate concurrent judgment quoted the impact of green revolution recorded the opinions of Michel capped Professor and Independent Chairman of the FAO Council. It was stated that the intimate bond between poverty and hierarchy is agrarian societies the impact of the social frame work of agriculture on the caste system, the inhibition of feudal tenures on the productive energies of the peasantry, are subjects which have been studied by cultural anthropologists, sociologists and economists and in consequence, the Constitution has included agrarian reform as a crucial component of the new order. Unless the peasant is allowed to participate fairly soon in the Green Revolution, it will quickly change colour. If it is to remain green, workers on the land must no longer be exploited as they are now, there must be a structural reform, which means first and foremost land reform. The judgement emphasized that "No land reforms, No social Justice". However, the ending note is relevant till date. The distance between the statute book and the landless tillers is tentatively long and for this implementation hiatus the executive, not the judicative, wing will



hold itself socially accountable hereafter. As Justice V.R. Krishna Iyer rightly predicted, the colour of Green Revolution faded because the landless persons could not participate in the so called revolution.

In 1979 (3) SCC 466, the decision of the Supreme Court in authorised officer Thanjavur Vs. S. Naganatha Ayyar and others<sup>13</sup> made it clear that any transfer to defeat the provisions of Tamilnadu Reforms (Fixation of Ceiling on Land) Act 1961 is liable to be declared void even if it is bonafide. The Supreme Court reversed the decision of the Madras High Court in S. Naganatha Ayyar Vs. Authorised Officer 1971, Mad. LJ 274. It was held by the Supreme Court that laws should be applied and interpreted in the interests of the community. Therefore the court struck down a individual transfer and remarked that the transfer should be looked from the community's angle, especially the landless community's angle hungering for allotment, the alienation, however necessary for the individual, is not bonafide vis-a-vis the community.

In Ambika Prasad Mishra Vs State of Uttar Pradesh and others<sup>14</sup> the Constitution Bench while upholding the constitutionality of Uttar Pradesh . Imposition of Ceiling on Land Holdings Act, 1960 reasoned that agrarian legislation, organised a egalitarian therapy must be judged, not meticulously for every individual injury but by the larger standard of abolition of fundamental inequalities, frustration of basic social fitness and shocking unconscionableness. A social surgery supervised by law, minimises, not eliminates, individual hurt while promoting community welfare. The Court, in its interpretative role, can neither be pachydermic nor hyperactive when landlords, here and there lament about lost land. The court declined to reopen the principles laid down in Keshavanandha Bharti case. It was observed that from State of Bihar vs Kameshwar Singh (AIR 1952 SC 252) and Golak Nath (I.C. Golak nath vs State of Punjab AIR

1967 SC 1643) through Kesavananda (1973 (4) SCC 225) and Kannan Devan Hills produce company Ltd. vs State of Kerala (AIR 1972 SC 2301) to State of Kerala vs Gwalior Rayon Silk manufacturing company limited 1973 (2) SCC 7/3 and after Article 31-A has stood judicial scrutiny, courts should not destabilise the land reforms.

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# THE LAND CEILING ACT

## ITS BACKGROUND

Having regard to the recommendations of the planning commission in the second five year plan for reducing the glaring inequalities in the ownership of agricultural land, the government decided to undertake legislation, for prescribing land that a person may hold. The ceiling will except as otherwise provided in the Bill, apply to all agricultural lands held by a person either as owner or as an usufructuary mortgage or as a tenant or as an intermediary or in one or more of these capacities. The provisions of the Bill will apply to the whole of the state of Madras. The Bill contains provisions for controlling future acquisition of agricultural land.

India is not an exception. Being not only a predominantly agricultural country but an underdeveloped country also where about seventy per cent of the people earn their livelihood from agriculture; land is the real basis of economy. Factors such as:

- i) the system of land tenure
- ii) the terms on which the land is held and cultivated and
- iii) the size and distribution of holdings.

All these affect agricultural productivity and the progress of agriculture depends to a large extent on whether the land system provides incentives and opportunity for development. Various committees considered this problem land reform. The reports of the Ragavendra Rao committee of 1947, the congress Agrarian Reforms Committee in 1949, Subramonian Committee in 1951, the Kumarappa Committee of 1956 and the planning commission are all illuminating. The trend of the report is -



1. Abolition of intermediaries
2. Land must belong to the tiller
3. Development of farmers potentials
4. Prevention of exploitation of one class by another
5. Aim at maximum efficiency of production
6. Schemes of reform should be within the realm of practicability.

India's land policy came to be one of effecting social change through democratic means, viz., to remove the defects in institutional frame work, to correct social injustices and to permit tenants to become owners of the holdings by paying a price. These ideas have been fortified by the Directive Principles contained in the Indian Constitution.

**Again Article 39 provides that,**

“The state shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; and that the operation of the economic system does not result in the concentration of wealth and means of production to the detriment”.

So the questions as to the level of ceiling to be adapted, the lands which should be exempted from the ceiling limit, the quantum of compensation to be paid for the surplus lands and the principles that should given the redistribution of the surplus lands drawn the attention of the government for years past. In 1954, a Cabinet sub-committee was appointed to go into these questions and other questions relating to comprehensive land reforms and submit a report.

The sub-committee submitted its report in 1955. The report was examined in detail and the Government of India were also

consulted. The idea at first, was to introduce a bill for fixing a ceiling on future acquisition only but later on it was considered that such a measure would not be adequate and that ceiling should be imposed on existing holdings also. In order to arrive at a decision as to the level of ceiling to be adopted, statistics of holdings were collected from the Agricultural Income-tax Department records for each district. Some important features of the Act are briefly discussed below.<sup>1</sup>

### **Ceiling on Possession of Land**

The ceiling will be fixed in terms of standard acres. One standard acre will mean one acre of wet land assessed land revenue at Rs. 10 and above per acre; one and one-sixth acres of wet land assessed land revenue at between Rs. 8 and Rs.10 per acre; one and three fifths acres of wet land assessed at between Rs. 4 and Rs. 8 per acre and dry land irrigated by lifting water from the Government source of irrigation: two acres of wet land assessed at below Rs.4 per acre; two and a half acres of dry land assessed at Rs. 2 and above per acre; three acres of dry land assessed at Rs.2 and above per acre; three acres of dry land assessed at between Rs.1.25 and Rs.2 per acre; or four acres of dry land assessed at below Rs. 1.25 per acre.

Thus the standard acre may vary from .8 acre to four acres. In case of fertile land the standard acre is less. The committee has introduced a slab in respect of wet lands assessed to land revenue exceeding Rs. 15 per acre and also assessments between Rs. 6 and Rs.8. It has also adapted the decimal notation instead of the fractions.

The ceiling area in the case of every person or family consisting of not more than five members will be 15 standard acres. The ceiling area in the case of a family consisting of more than five members will



be 30 standard acres with an additional five standard acres for every member in excess of five, subject to the maximum of 40 standard acres. This was effected by the Amending Act XVII of 1970.

Earlier the Madras Land Reforms Act 1961 provided that the ceiling area of every family consisting of not more than five members shall be 30 standard acres. The ceiling limit of every family consisting of more than five members shall be 30 standard acres together with an additional 5 standard acres for every member of the family in excess of five. Any female member of the family is entitled to hold shridhana land not exceeding 10 standard acres in addition to the ceiling limit. It is very obvious the ceiling limit provided by the land is large and flexible and the landlords were afforded adequate opportunities to screen their prime lands from the operation of Land reform legislation.

### **Fixation of Ceiling**

Within 90 days of the date of publication of the Act every person who on 6th April 1960, the date of publication of the Bill, held or is deemed to have held land in excess of the ceiling area, should furnish to the Authorised officer, a return containing the particulars of his land, including the particulars of land which he desires to retain. The authorised officer will, after enquiry, prepare a draft statement in respect of each person holding land in excess of the ceiling area containing particulars of his land, including particulars of the land which in the opinion of the authorized officer may be comprised in the ceiling area and particulars of the land which the Authorised Officer proposes to declare as surplus land.

The draft statement will be published and a copy thereof will be served on the person concerned, the creditors and others interested

in the land, together with a notice inviting objections. The authorised officer will consider the objections, if any, preferred, make necessary alterations in the draft statement and publish a final statement, specifying therein the entire land held by the person, the land to be retained by him and the land declared to be surplus and cause a copy thereof to be served on the persons concerned. The Land Tribunal, consisting of only one member, who will be a judicial officer of the rank of the sub-judge can revise the decision of the authorised office in this regard.

If while considering the objections preferred the Authorised Officer finds that any question has arisen regarding the title of a person to any land, he may decide such question summary and, against such decision any party may institute a suit in the land tribunal.

After the publication of the final statements by the Authorized Officer, the government will publish a notification to the effect that the surplus land is required for a public purpose and, on such publication, the land, together with trees, buildings, machinery, plant, etc., thereon will be deemed to have been acquired for a public purpose from all encumbrances with effect from the date of such publication.

Every person whose right, title or interest in any land is acquired by the government, will be paid compensation, which will be a multiple of net annual income from the land. The net annual income from the land will be the fair rent less the land revenue and land revenue will include cess, additional surcharge and charge for water.

Compensation will also be payable for any tree, building, machinery, plant, etc. on the land acquired by the Government. The



Authorised Officer will determine the amount of compensation, prepare a draft compensation assessment roll, publish it and also serve it on the persons concerned, together with a notice inviting objections. He will consider the objections, if any, preferred, make such alterations in the draft compensation assessment roll as may be necessary and publish the draft as so altered finally. Against the decision of the authorised officer on the objections preferred, there will be an appeal to the land tribunal. The amount of compensation as finally determined will be paid in bonds and such bonds will be negotiable and transferable and payable in 20 equal annual installments and will carry interest at 5 percent per annum with effect from the date of issue.

### **Mechanism under the Act - Land Board**

The Government may constitute for the state a Board called Tamilnadu Land Board, consisting of five members. One judicial member of the rank of High Court judge, who will be either an officer in service or a retired person, the land commissioner, who will be an officer of 15 years standing, the directors of Animal Husbandry and two members nominated by the Government. The secretary to the Board of revenue (Land revenue) will be the secretary of the Land Board, but he will not be entitled to vote.

The Land Board will have power to decide the extent of land that can be retained or acquired for dairy farming or livestock breeding after taking into consideration the interest of the public generally, the status and previous experience of the person concerned, the suitability of land for dairy farming and livestock breeding and the number of heads of cattle owned by the person, their breed and special features. If any owner of a plantation in existence, on the date of publication of the Bill in any area other than a hill area, desires

to retain or acquire land, which is interspread in the plantation, for the extension or for ancillary purposes of the plantation, the question has to be decided by the land Board.

In respect of land contiguous to the plantation, the owner may not, in any case, retain or acquire an extent exceeding 20 percent of the total extent of the plantation, the owner may not, in any case, retain or acquire an extent exceeding 20 percent of the total extent of the plantation.

### **Exemptions to ceiling law**

The ceiling law will not apply to hill areas. It will not apply to lands held by the Central Government, State Government, local authority, University constituted by law, educational institution or trust for a public purpose of an educational nature and co-operative society. It will not apply to lands used, on the date of publication of the Bill for growing plantation crops viz., Cardamom, Cinchona, Coffee, Rubber or tea and lands converted, on or before 1st July 1959, into orchards, topes or arecanut gardens.

It will not apply to lands on which casuarina trees are standing on the date of publication of the bill upto the date on which the trees are cut or upto the date on which a period of six years from the date of planting the trees expires, whichever is earlier. It will not apply to Gramadan lands, lands donated for purposes of Bhoodan Yagna and lands awarded for gallantry in the first or second world war or subsequently for the life time of the person to whom the award was granted. Any person may hold, in addition to the ceiling area, land exclusively used for grazing and assessed to land revenue at Rs. 1.25np and below per acre upto an extent of 50 acres. Thus the exemptions provide adequate holes in the ceiling law.



## **Distribution of Surplus**

Provision for the disposal of the surplus lands acquired under the Land Ceiling Act has been made in the rules issued under the Act. The government will give preference to any person who is completely dispossessed or whose extent of holding is reduced below 3 standard acres or one who belong to the Scheduled Caste or Scheduled Tribe or an Ex-service man or one who volunteer to cultivate the land personally by himself. Thus the provision for disposal of surplus lands provides and fulfills the laudable object of the land ceiling legislation providing for a more equitable distribution of available land and awarding land for the landless persons.<sup>2</sup>

## **Fraudulent transfers**

Where the contract of tenancy provides for the continuance of any persons as a tenant in respect of a surplus land that vests in the Government after the expiry of the agricultural year next after the date of such vesting, such tenant will be entitled to compensation, equal to one eighth of the fair rent for the land, for each agricultural year during which he would have normally continued in possession of the land but for the acquisition of the land by the Government. If there is any intermediary on the land the compensation will be apportioned equally between the tenant and the intermediary. The amount of compensation thus payable to the tenant and the intermediary will be deducted from the amount of compensation payable to the land owner.

If after the date of publication of the bill and before the date of publication of the Act, any persons transfers any land held by him, by sale, gift, exchange, surrender, settlement, or otherwise or effects a partition of his holding, the Authorised Officer may, after notice to

the person and others concerned, declare the transfer or partition to be void, if he finds that the transfer or partition defeats any of the provisions of the Act. Any document relating to any transfer or partition registered during the period referred to above, will operate from the time of its registration.

After the date of publication of the Act, no person should voluntarily acquire or possess by transfer, either by sale, gift, exchange, lease, usufructuary mortgage, surrender, settlement or otherwise, any land which together with the land already held by him will exceed the ceiling area. No right, title or interest will accrue in favour of the transferee in any land in excess of the ceiling area, by virtue of any transaction made in contravention of the above provision, and as a penalty for such contravention, the right, title or interest of the transferor in such excess land will be deemed to have been transferred to the government with effect from the date of such transfer.

If after the publication of the Act, any person acquires land by inheritance or bequest and such land together with the land already held by him exceeds the ceiling area, then he should furnish to the authorised officer a return containing the particulars of the land. Thereafter, the normal procedure will be followed and the surplus land will be acquired by the Government.<sup>3</sup>

### **Amendments made on Ceiling Law**

Act 10 of 1972 made the chapter VIII of the Act dealing with cultivating tenants permanent. Another Act 17 of 1970 reduced the ceiling area from 30 to 15 standard acres in the case of a family of not more than five persons. Act 41 of 1971 has made a number of amendments. Sections dealing with Sugar factory Board has been omitted. As per new section 94-A added the Government shall make arrangements for the cultivation of lands acquired by the Government from a Sugar Factory.



Section 94-B added deals with Corporation owned by State Government through which the surplus lands referred to above will be cultivated. Section 94-C deals with exemption in respect of land held by sugar factory for research purposes. Section 5 was amended to reduce the total ceiling for any family from 60 to 40 standard acres. The Amending Act also introduced new Chapter IV-A dealing with permission by Government to hold excess land by industrial and commercial undertaking. New Section 18-A empowers the Land Commissioner to direct that land not included to a person's holding be included in such holding.

The Second Amendment Act 1974 empowers the government to prescribe time limit for preferring revision to the land commissioner. It also provides that for this purpose of fixing the Ceiling Area of any person any transfer, sale or sub-division of land effected on or after the notified date and before the publication of the Government's notification that the surplus lands is required for a public purpose, will be deemed to have been void. This Amendment was necessary after the famous case, *Naganatha Iyer vs Authorised Officer* 1971 IMLJ 274.

It was held that the Authorised Officer could not declare such transfers void if they are bonafide so the second Amendment was necessary to make such transfers void.

The third Amendment Act of 1974 seeks to exempt from the ceiling law the plantations that were in existence on 15.02.1970. The central government had recommended that the plantation industry deserved special treatment and hence this Amendment was effected by Act 20 of 1972 section 37A was inserted which authorised government to exempt industrial and commercial undertaking and by Act 29 of 1987 section 37B was inserted to exempt public trust

for educational and hospital purposes. By 1998 Amendment in section 7 of the Act, it was made clear, half acre fraction was allowed in excess of ceiling area.

A mere reading of the Land Ceiling Act would show that the Act is a weak, and half hearted attempt by the state to fulfill the Constitutional goal of distribution of resources. The exemptions granted under section 73 of the Act are numerous which made adequate holes in the Act to enable sharks to escape the net. Section 77 G of the Act bars jurisdiction of all courts except the Supreme Court. Writ jurisdiction of the High Court is barred under section 77.H of the Land Reforms Act, it is one of the salient feature of the Act, which was inserted by Act 3 of 1984.<sup>4</sup>



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# **GENERAL PROVISIONS OF THE TAMILNADU CULTIVATING TENANTS PROTECTION ACT 1955 AND OTHER LAND REFORM LAWS**

The subject matter of legislations, Tamilnadu Cultivating Tenants Protection Act 1955 and Tamilnadu Cultivating Tenants (Payment of Fair Rent) Act 1956 falls under item 18 of List II of the Seventh Schedule, viz., land that is to say, rights in or over land, land tenures, including the relation of landlord and tenant. The enactment purport to regulate the relation of landlords and tenants in agricultural lands in the state.

The Acts represent a valid exercise of the legislative powers of the state under Article 246 and item 18 of List II of Schedule VII of the Constitution and the restrictions imposed by the enactments on the land owners right to hold property are reasonable restrictions imposed in the interests of the general public. The decision of the High Court in AIR 1958 Mad 608 affirms that the Acts do not offend Article 14 of the Constitution.<sup>1</sup>

## **Intention of the Legislature**

The Acts were enacted to restrict the grounds of eviction open in cases of tenancies unregulated by statute. They do not enlarge the grounds already open to landlords to effect eviction. Under section-3 no cultivating tenant can be evicted in any manner during the continuance of the Act except as provided by the other provisions of the Act. Even if there is a decree for eviction against the cultivating tenants he cannot be evicted in execution of that decree.



## **Civil Court jurisdiction and cultivating tenants**

If there are pending proceedings, in a civil court where prima facie decision has been given that the relationship of landlord and cultivating tenant does not exist and the opposite party rushes to the Revenue Court in order to obtain a decision to the contrary, the Revenue Divisional Officer shall not proceed with the matter but should await the decision of the Civil Court. The moment the civil court finds that the relationship of landlord and cultivating tenant exists, it should transfer the proceedings. The moment it is found that such a relationship does not exist, the Revenue Divisional Officer must respect the finding of the Civil Court and dismiss the application before him.

## **Definition of Cultivating Tenant**

The Act protects the cultivating tenant from being evicted by the landlord at his will. A cultivating tenant could be evicted only in accordance with this Act. A cultivating tenant could be defined as under,

- i) a person who contributes his own physical labour or that any member of his family in cultivating the land of another under a tenancy agreement express or implied and
- ii)
  - a. includes any such persons who continues in possession of the land after the determination of the tenancy agreement.
  - b. or the heir of such person if the heir contributed his own physical labour or that of his family in the cultivation of such land.
  - c. or a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land.

d. or such sub-tenant who continues in possession of the land notwithstanding the person who sub-let the land to such sub-tenant ceases to have the right to possession of such land.

iii) But does not include a intermediary or his heir

In Subbiah Nadar vs Nallaperumal Pillai 1973 IMLJ 459, it was held by the Madras High Court that if the lessee is an old man and cultivates extensive area it is improbable that he would have contributed physical labour which does not include assisting in the lifting of bundles and demarcation of line for planting saplings, all these works if done by a servant, it does not attract him to put into the definition of cultivating tenant.

Whereas in Kundhithapatham Vs Ranganathan 1958 IMLJ 272 though the land is cultivated under the direct supervision without any physical effort of the person the supervisor is a cultivating tenant. But a panniyal is not a cultivating tenant as held by the Supreme Court in Srinivasa Thathachariar Vs Pitchai Muthu Moopan in AIR 1976 SC 656.

### **Cashewnut plantation lessee is a cultivating tenant**

A person who takes land on lease for enjoyment of the usufruct of the cashewnut plantation thereon is a 'cultivating tenant' as defined in section 2 (a) of the Tamilnadu cultivating tenants protection Act and he must be held to be engaged in "cultivation" as defined in Section 2 (b). Irrespective of the nature of the produce of the land, whatever is grown, aided by human labour and effort, would be agricultural produce and the process of producing it would be "agriculture" and the lessee in respect of a cashewnut plantation would be certainly a person engaged in "cultivation" and hence entitled to



the benefit of section 4-B of the Act as amended by Act XIV of 1956. But a mere right to collect usufruct of trees is not a lease of land.<sup>2</sup>

### **Eviction of cultivating tenant**

(a) If the cultivating tenant is in arrears after the commencement of this Act and does not pay within one month after such commencement or who in respect of rent payable to the landlord after such commencement does not pay such rent within a month after such rent becomes due.

(b) The lessee who has done any act or guilty of negligence which is destructive or injurious to the land or any crop thereon or has altogether ceased to cultivate the land.

The Madras High Court held in *Chellammal Vs. Nagaratinam Ammal* 1967 2 MLJ 402 where the cultivating Tenant did not notice the encroachment by the third party which was discovered by the land lady after a fresh survey. It was held the cultivating tenant is not liable for any negligence and he cannot be evicted.

(c) Cultivating tenant uses the land for non - agricultural purpose.

Use of land as fuel Depot is a non agricultural purpose and such user could be evicted as held by the Madras High Court in 1959 I MLJ 64.

(d) Denying title of landlord

The denial of title must be wilful. A denial of title under a bonafide mistake of fact is not wilful. In *Ramanujam Reddiar Vs.*

Kamalammal 1962, MLJ 336 the Madras High Court held that where the tenant denied entry to the landlord to install electric motor for irrigation it is held as an act of denial of title of landlord.

### **Procedure for Eviction**

Every landlord seeking to evict a cultivating tenant shall whether or not there is a decree of a court or an order for the eviction of such cultivating tenant is pending, make an application to the Revenue Divisional Officer. The RDO holds a summary enquiry and allow deposit of arrears of rent if eviction is sought for arrears of rent and pass an order for eviction for non - compliance.

Though the court is not bound to grant time for payment of rent, it can apply its judicial mind to the question of granting further time. The court must give an opportunity to the tenant to pay the arrears.

### **Restoration of Possession to the Cultivating Tenant**

If a cultivating tenant who is in possession is dispossessed after the commencement of this Act by a method other than an application to Revenue Divisional Officer, that cultivating tenant is entitled to apply to the Revenue Divisional Officer within two months from the date of such eviction for restoration of possession to him.

### **When Landlord cannot resume land for Personal cultivation?**

The Madras High Court held in Kuppu Chettiar Vs Mayandi Ambalam 74 MLW 819, that Landlord cannot make successive applications once he has applied and his right is worked out. While disposing an application to resume land for personal cultivation the RDO may pass order for reimbursement to the tenant and permit the tenant to harvest the existing crops.



But a landlord who owns land in excess of 13.33 acres of wet land or he has been assessed of Sales Tax, profession tax, Income tax in the earlier financial year to the year of application such landlord cannot resume land for personal cultivation as held.

In Kothanda Pillai Vs Devaraj Reddy 1966 1 MLJ 164 by the Madras High Court.<sup>3</sup>

If land lord owned land in excess of the limit of 13.33 acres and any subsequent reduction would not entitle him to resume possession. The landlord also cannot defeat the sub-section by transferring a part of the land, reducing his holding thereby at below the ceiling level.

### **Tamilnadu Occupants of Kudiyruppu (Conference of Ownership) Act 1971**

This Act was enacted in the year 1971 which followed the earlier Act Tamilnadu occupants of Kudiyruppu Protection From Eviction Act 1961 which protected the agricultural labourer from eviction from his dwelling for a period of 12 years. Before the expiry of the protection conferred by this Act the 1971 Act was passed which conferred ownership on the occupants of Kudiyruppu.

Agricultural labourer means a person whose principal means of livelihood is the income he gets as wages for his manual labour on Agricultural land. Agricultural land is any land used for any of the following purposes horticulture, grazing, dairy farming and poultry. Kudiyruppu is hut or dwelling house occupied by and tenant, licensee, Agriculturist, Agricultural labourer.

Under this Act any Agriculturist or Agricultural labourer who was occupying any Kudiyruppu on 19th June 1971 either as a

tenant or as licensee shall with effect from the date of the commencement of this Act be the owner of such Kudiyruppu and such Kudiyruppu shall vest in him free from all encumbrance. If any dispute arises as to whether the occupant is really an Agriculturist or not, such dispute shall be decided by the Authorised officer and appeal from such decision will be enquired by the District Collector. Every owner or person having interest in the vested Kudiyruppu shall be entitled to be receive and paid compensation.<sup>4</sup>

### **Practical difficulties of the Act**

The occupants who have been allotted the Kudiyruppu is bound to reimburse the government the amount of compensation paid to the owner. Only 5% rebate is allowed by the government, the reimbursement is to be made in two annual installments with 6% interest. Though in some cases the amount to be reimbursed is very low it is highly difficult for the economically marginalised agricultural labourer who is living a hand to mouth existence to pay the money. If he had the money he would have owned a dwelling earlier. Apart from this the Act assures thousands of labourers a roof over their head.

### **The Tamilnadu Estate (Abolition and Conversion into Ryotwari) Act of 1948**

In many estates in the then province of Madras, the rent levied by the land holder from his ryots is substantially in excess of the assessments charged by the Government on similar land in the neighbouring ryotwari area and is beyond the capacity of the ryots to pay. The Zamindari system has perpetuated an assessment which has no relation to the productive capacity of the land. It has further led to the loss of contact between the government and the actual



cultivator and has acted as a hurdle in regard to agricultural improvement. Most of the irrigation works in estates were in a state of disrepair. The complexities of the Zamindari system have led to large number of litigations and many of the records in the offices of zamindars are indifferently maintained and the peasantry most of whom are illiterate, are at the mercy of unscrupulous agents. Zamindari administration has rarely, if even, been as efficient as administration in government areas. There is thus acute discontent among estate ryots and there has been a good deal of agitation by them.

Presenting to the Madras legislative Assembly, the report of the joint select committee on the zamindari Abolition bill the then Revenue Minister said, "Man's history on earth has been a race between population and food supply. Food supply has been losing the race nowadays. Remedial measures are urgently necessary to see that food supply keeps pace with the growth of population on the face of this globe. Food supply is much connected with the mode of agriculture in this country as elsewhere. As in all other professions, the profit motive plays its part in the profession of agriculture also. Unless the man who cultivates the land gets his due from out of the produce of the land, he will not be interested in producing the food and thus meet the demands of his countrymen". Thus in Zamindari System, ownership is severed from the responsibility so the system is rightly abolished.

### **The Tamilnadu Inam Estates (Abolition and conversions into Ryotwari) Act**

The Estates falling under section 3(2) of the Madras Estates Land Act 1908. Comprise Zamindari estates, under Tenure Estates and whole Inam villages. Whole Inam villages are of the two

categories, viz., in an villages, the grant of which comprised only the Melvaram, which may be termed Melwaram inam estates, and Inam villages, the grant of which comprised both the Melwaram and the Kudivaram, which may be termed iruvaram inam villages are also called “1936 Inam villages” as these villages became estates under section 3(2) (d) of Madras Act I of 1908, by Virtue of the Madras Estates Land (Third Amendment) Act 1936. In pursuance of the policy of abolition of all intermediaries between the government and the actual cultivators, the Zamindari estates, the under-tenure estates and the Melwaram Inam estates have already been abolished and converted into ryotwari, under the Tamilnadu Estates (Abolition and Conversion into Ryotwari) Act. Therefore the instant Act was enacted to convert the iruwaram Inam Estates and convert them into ryotwari land.

### **The Tamilnadu Minor Inams (Abolition and Conversion into Ryotwari) Act.**

The Inams in this state fall into two broad classes - Minor and major. The major Inams consists of grants of whole villages, on favourable tenure, with or without conditions of service attached to them. The minor Inams consist of grants of isolated fields or blocks, on favourable tenure, and subject to rendering some service or other in Most cases, or as a reward for past service, etc. In pursuance of the policy of abolition of all intermediaries between the government and the actual cultivators, those major Inams in which the grants consisted of the Melvaram alone, were abolished and converted into ryotwari under the (Tamilnadu Act XXVI of 1948) the Estate Abolition Act. The instant Act abolishes minor Inams and convert them into Ryotwari land.<sup>5</sup>



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1. Tamilnadu Land Reforms (Fixation of Ceiling on Land) Act 1961
2. Tamilnadu Land Reforms (Disposal of Surplus Land) Rules 1965
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5. Tamilnadu Cultivating Tenants (Payment of Fair Rent) Act, 1956

# THE RISE AND FALL OF LAND REFORM LEGISLATIONS IN TAMILNADU

During British Imperial rule there were so many land systems in existence in Tamilnadu. The Zamindari System, Minor Inams, Major inams, service inams, absentee landlords, pannaiyal system or cultivation through farm workers, Mirasi system, Kaniyatchi system etc. In summary, the land was completely alienated from the real cultivators, the working classes whatever name the system is addressed as the Zamindari system was used by the British administration to collect tax from the land users. Zamindars were neither successors nor purchasers of the property but they were used by the British administrators to collect tax from the tillers. These zamindars were drawn from dominant communities and their qualifications inter alia to eat, drink, merry making and please the British Collectors.

During 1948, Estate Abolition Act was enacted by the Congress government<sup>1</sup> which did not recognise the rights of tillers. By the enactment of zamindari Abolition Act the lands in the control of Zamindars were converted into ryotwari lands and Zamindars were paid a hefty sum as compensation and were allowed to retain large tracts farm land, the rest of the lands were distributed among farmers. Thus the Zamindari Abolition Act conferred ownership of lands to the Zamindars instead of removing the same from them to the use of tillers. Inams are grants made to temple or individuals or families. viz Inam villages, the grant of which comprised of only the Melvaram, which may be termed as Melwaram Inam estates, and Inam villages the grant of which comprised of both Melwarams and the Kudiwaram, which may be termed Iruwaram Inam estates. The



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There was yet another feudal institution which was in vogue till 1963 that was the lease hold villages. There were 11 villages in

the State which were enjoyed by the lessees either permanently or for 99 years as in two such villages. The Madras leasehold (Abolition and Conversion into Ryotwari) Act 1963 abolished the leasehold system. Inam Abolition Acts and Leasehold Abolition Act provided compensation to the Inam holder and leaseholder about 20 times the average not annual revenue. Theoretically when Inams were abolished, Ryotwari pattas were granted to persons who were personally cultivating the said lands or in possession of the lands. The lands such as forests, beds and bunds of tanks, threshing floor, Cart tracks, temple lands, community lands etc. were excluded from ryotwari patta but practically the Inam holders managed to obtain pattas through fictitious names in addition to the compensation from the state exchequer, and the Inam holders got the double advantage of retaining the land and got richer at state's expenses.

The Madras Cultivating Tenants Protection Act 1955 was enacted and was extended to the whole of Madras other than the areas to which the Malabar Tenancy Act 1929. Initially the Act was in force only for the period of four years which was extended from time to time. Cultivating tenant should carry on personal cultivation which requires the tenant to contribute physical labour. The Act prohibited the eviction of cultivating tenant except when he was in arrears of rent. The Act applied to cultivating tenants who are not covered by Tanjore Tenants and Pannaiyal protection Act 1952. According to the Madras Cultivating Tenants (Payment of Fair Rent) Act 1956 Fair Rent shall be 40 percent of normal gross produce or its value in money. In each harvest the land owner is entitled to one fifth of the straw or stalk of all crops. Subsequently Tamilnadu cultivating Tenants (payment of Fair Rent) Act amended in 1980 by Act 17 reduced Fair Rent as 25% of the normal gross produce. Tamilnadu Occupants of Kudiyiruppu (Protection from Eviction) Act 1961, protected the Kudiyiruppudars from eviction and



Tamilnadu occupants of Kudiyiruppu (conferment of ownership) Act 1971 conferred ownership on agriculturist or agricultural labourer free from all encumbrance. Tamilnadu public Trusts (Regulation of Administration of Agricultural Lands) Act 1961 provided that no public trust shall personally cultivate land in excess of twenty standard acres. Every public trust personally cultivates land in excess of twenty standard acres shall have to lease out the lands in excess to a co-operative farming society to a cultivating tenant. There are 81 farming societies listed in the Act. This there are numerous legislations, making the Land Reform issue a complicated legal maze without any way out.

The Tamilnadu Land Reforms (Fixation of Ceiling on Land) Act 1961 provided that nothing in the Act shall apply to any religions institutions or by any religious trust of public nature. In *Vedapatasala Trust vs State of Tamilnadu* case imparting instructions in Vedas and Agamas was deemed to be religious trust of public nature. The Several decisions by the Madras High Court viz *Kamala Ganapathi vs Authorised Officer* 1984 (1) MLJ 78, *Rajammal vs. Authorised Officer* 1984 (1) MLJ 270, *A. Venkatasami Naidu vs State of Tamilnadu* AIR 1974 Mad. 124, *Vavallevvai Maracair Dharaam vs State of Tamilnadu* 1979(2) II MLJ 121 would show that courts are in favour of excluding lands from operation of the Land Ceiling Act rather than giving effect to the Act. If the sub clauses (c) and (u) in section 2 sub section 1 of the Tamilnadu Land Ceiling Act 1961 which provided exemption of lands belonging to religious trust of public nature are removed from the statute, it would bring 6,50,000 acres of land for distribution among landless and deprived sections of Tamilnadu. Instead of performing poor feeding in Temples, the allotment of temple land would definitely ensure 6.5 lakh families, atleast one square meal a day. Though Public Trusts Act allows only 20 standard acres to be retained for personal cultivation by the Trust,



Dharmapuram Atheenam had 3,500 acres of lands for personal cultivation and Thiruvaduthurai Adheenam is not lagging behind with a whopping 8000 acres for personal cultivation. The temples under Tamilnadu Hindu Religious and Charitable Endowment also account for about 56,000 acres and these lands are center of conflicts between deprived sections of the community.

In Chennagarampatti village in Melur Taluk, two dalits viz Ammasi and Velu who participated in the bidding of 7.5 acres of land owned by Tamilnadu Hindu Religious and Charitable Endowment were mercilessly killed by other communities. In the present context the role of Zamindars and Mirasudars are replaced by Temples and religious trusts which contributed negatively for the land reforms. Feudalism cannot be removed without decimating the hold of the religious institutions over lands. In Tamilnadu land reform legislatures have become vestiges and defunct. No district administration is bothered about the relevance of Land Reform Legislations rather they are matters of the past. The litigations are only intended to classify the land under religious trusts or charitable trusts, if it is a religious trust it can claim total exemption if not partial exemption. Tamilnadu government is moving towards allotting the village lands, grazing lands and community lands to private companies sealing the long peasant struggles for the implementation of Land Reforms. It was Constitutional ignorance coupled with social idiocy of the persons in the seats of power resulted in the pampering of the wealthy companies Indian and foreign and government allow them to usurp village lands with legal sanction.

Some salient features of West Bengal Land Reforms Legislation vis a vis Tamilnadu Land Reform Laws.

Tamilnadu has more than a dozen Land Reform legislations and more number of rules framed under each legislation. Tamilnadu



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Land Reforms (Fixation of Ceiling on Land) Act 1961, Tamilnadu Cultivating Tenants (payment of fair rent) Act 1956, Tamilnadu Agricultural Lands Record of Tenancy Rights Act 1969, Tamilnadu Cultivating Tenants Protection Act 1955, Tamilnadu Occupants of Kudiyiruppu (conferment of ownership) Act 1971 are few fragmented pieces of land Reform Legislations, whereas West Bengal has a comprehensive single piece legislation viz West Bengal Land Reforms Act 1955 which contain provisions for share croppers, consolidation, Ceiling etc.

The West Bengal legislation is a class above after successive amendments aimed to improve the functioning of the Act. In 1965, 1971, 1972, 1981 and 1986 the West Bengal Act was amended. In 1965, Amendment Comprehensive Provisions were included to prevent alienation of land by a raiyat belonging to Scheduled Tribe. By 1971 Amendment the position of bargadar (share cropper) was safeguarded. The security of the tenure of a bargadar in respect of atleast one hectare of land had been ensured. When the owner did not supply farm products like plough, cattle, manure and seeds, the bargadar's share was raised from 60 to 75%.

By 1981 Amendment a proposal was made to set up a Land corporation and a common service Co-operative society for catering to the needs of farmers to improve the cultivation methods and to free the poor cultivators from the clutches of usurious money lenders. The 1986 Amendment which provided that the rights of the land in Non - agricultural land shall vest in the state. In the West Bengal Legislation Transfer of land belonging to Scheduled Tribe shall be void which protects tribes including Aser, Baiga, Bedia, Seathal, Gond, Khond, Kisan, Lepoha, mach and Chakra. Section 4D of the West Bengal Act provides a punishment of 3 years imprisonment and fine of Rs. 1000/- for violation of the Act on a complaint made

by the collector. Though the West Bengal Legislation provided exemption to Orchards and lands held by religious and charitable institutions, section 14 M(6) of the Act provided that Trust or institution of public nature shall be entitled to retain lands not exceeding 7.00 standard hectares notwithstanding the number of centers and branches.<sup>4</sup>



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# TALE OF TWO VILLAGES

## Sripuram and Thaiyur

Sripuram is a small village situated on the north bank of Kaveri river adjacent to Thiruvaiyar in Tanjore district with a majority of Brahmin land lords and an equal population dalits as Pannaiyals or agricultural coolies. Thaiyur is small village 35 kilometers south of Madras with it's 90 percent of population comprising of Periyars from Scheduled Castes and the entire productive land is owned by Vellalars and Mudaliars who comprises only 4.8 percent of the total population. The study on Sripuram village was performed by a professor of sociology in Delhi School of Economics and the study on Thaiyur village was conducted by two swedes Goran Djur felt and staffan Lindberg. Both comprehensive studies reveal the social structure in which the upward mobility in the social ladder Scheduled Caste is systematically denied.

In Thaiyur Village the population during the study was 5000 in which 89.6 percent were from Scheduled Caste Paraiyar Community and 4.8 percent belonging to Vellalars, Mudaliars and Brahmins and the rest Muslims, Asaris, etc. Out of the entire income generated by the village the 54 percentage of the people from the lower strata who are almost Scheduled Castes who could get only 24 percent of the total income of the village whereas 14 percent of the families from dominant communities rob more than 50 percent of the village income. Only 11 percent of the houses are permanent structures which do not belong to dalits. Even the marginal land owned by dalits could not get water during scarcity periods, dalits were burdened with debts. Even the Poromboke or No mans land would not be allotted to dalits.



The agricultural labour system, Padiyal system is exploitative and almost equivalent to slavery. Dalits are alienated from means of production including land, livestock, agricultural implements and also in the salt pans where the non - scheduled caste communities are the producers and merchants while the Scheduled Castes contribute to the entire labour. Another important factor is the religious sanction for the class division. The land owning committees strongly believe in Hindu Karma and religious practices and they attribute their wealth to the good deed in their previous births and they also believe in Hindu Dharma or charity, which is a marginal distribution their income which allow them to keep their wealth derived by exploitation without any feeling of guilt.

The Sripuram study was made when the mirasidar system was still in vogue. Majority of the landlords were Brahmins, particularly Iyengars. Among the 300 household then in the village 92 householders belong to Brahmins, particularly tamil speaking Vadagalai Iyengars, Vellalars. Chozhia Vellalars, 49 households, Kallars 24 house holds, Padayachis 27 households and Pallars 82 house holds, Paraiyars 5 households an other house holds, in small numbers include artisans, non Tamil Castes, Muttaraiyar and Muppanars!

There is a stark cleavage of the class structure in Sripuram village where most of the land is owned by the dominant communities. Though the imposition of 30 acre ceiling by the 1961 Land Ceiling by the 1961 Land Ceiling Act, not many were hit by the legislation because many estates were divided among family members which reduced the land below the Ceiling. During 1960 - 61 when the law was passed in the legislature, 150 acres of land were sold or transferred. The majority of people engaged in the agricultural work are non owners of land. There are broadly three classes landlords,

tenants and agricultural labourers which comprised of Brahmins as landlords, intermediary castes such as Kallars and Vellalars as tenants and pallas as agricultural labourers.

The Kuthahai system (lease) enables the Kuthahaithar who contributes his labour and capital in the form of seeds, manure, plough cart etc and he gives to the landlord a quantity of grain which varies between 65 to 75 percent of the total produce. The Fixation of Fair Rent Act though altered the legal situation, the factual exploitation is unabated. The Tanjore Tenants and Pannaiyal Protection Act of 1952 sought to provide security to the Pannaiyal or agricultural labourers, it's success was limited because more farmers evade the law by simply not entering any formal contract.

Many of the landlords are absentees and in many cases they sell the lands to intermediary castes. Scheduled Castes are either too poor to afford the land price or in many cases the lands would not be sold to them. The division between Agraharam and Cheri is as hard as the division between ownership of land and Scheduled Castes though Scheduled Castes are indispensable for the well being of the land and Agraharam. The change of political scenario and the growth of Dravidian parties brought together the backward classes who own medium size land holdings. Though Panchayat system where influential members of dominant castes take important decisions affecting rights of people is in vogue, scheduled castes are not able to assert their rights in the panchayats. In Sripuram and neighbouring villages Kallars have a tradition of suppressing the Scheduled Castes by force. On one occasion culminating in the murder of a Kalla Land owner by a member of Scheduled Caste. The Kallas entered the Scheduled Caste residential area and had beaten up the Scheduled Caste they also stormed into the court hall to execute the murderer. The Scheduled Castes in Sripuram do not challenge the decisions of



the Panchayat President who is a Kalla. Scheduled Caste do not have any bargaining power with their landowners.<sup>2</sup>

Both the studies bring out the ground realities of the densely weaved class structure in which scheduled castes were placed outside the means of production and they were denied access to the same the dominant communities by adopting different social tools. It is a social game of dice played by all communities and Scheduled Castes are allowed to play with dice without one, so they could never throw one to start the game to compete on equal terms with others.

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## CHENNAGARAMPATTI MURDERS

### **An infamous illustration of State apathy'**

Madurai District in Tamilnadu is comprised of seven taluks. Melur Taluk lies almost in the North East of Madurai. Melur Taluk is notorious for its atrocities on Scheduled Castes. In the collected works of Dr. Ambedkar several atrocities on Scheduled Caste were recorded. In Melavalavu no tea was served to dalits in tea shops. In August 1953, Swami Anantha Theerthar, the Regional Officer for All India Harijan Sevak Sangh had to run for his life and sought refuge with the Government Officers when chased by caste zealots for demanding equal treatment in a tea shop. In Keezha Vazhavu village dalits were denied access to drinking water.

In Kidaripatti village no access to cremation grounds for dalits. In Nondikovilpatti village there was no access to drinking water for dalits. In Kottakudi village no haircutting was performed for dalits. In Navinipatti village dalits were not allowed to wear new dress during pongal festival and few who ventured were beaten up and allowed to go with their loin clothes!

In Mangulam village dalits were denied bathing in the public pond and those who resisted were beaten and have their bones fractured including members of Harijan Sevak Sangh. In Ehimangalam village dalits who were having marginal agricultural lands have lost their rice saplings by the mischief by Hindus. In Thumpaipatti village few dalit youths who defied the Hindu landlords were taken to the village Manthai or meeting place and were beaten up severely till one of them had a fractured leg. Subsequently a dalit Poosari was coerced to lodge a false complaint against the already tortured youth

as if they have stolen the pooja articles from the village temple. These are some of the atrocities in Melur Taluk in Madurai District recorded in Dr. Ambedkar's collected works which happened during early fifties. Subsequently the son of the Thumpaipatti village Priest Kakkan became a Home Minister in the Ministry of Mr. K. Kamaraj, but atrocities against dalits remain unabated till date. Ammasi and Velu, two Dalits successfully bid 9.25 Acres of land belonging to village temple Ammachi Ayyanar Mandir Kovil under the administration of Tamilnadu Hindu Religious and Charitable Endowments. This first step for possession of land invited the wrath of the Kallars who are numerically stronger in Chennagarampatti village. They grouped together and on 05.07.1992 brutally killed Ammasi and Velu who wanted a small share of land to eke their livelihood. A criminal case was registered against 28 accused but provisions of SC/ST Act were invoked only after long legal battle. The trial of the case is yet to commence as on 05.07.2004.

On 30.06.1997 Kallars killed six Dalits including Panchayat President Murugesan, Melavalavu village at a stone throw distance from Chennagarampatti. In the said occurrence the head of the Panchayat President was severed. After the murder and was thrown into a well, finally after several legal battles by the victims, the case was transferred from Madurai Special Court to Salem Sessions Court and ultimately 17 persons were convicted under the Indian Penal Code and not under the Scheduled Castes / Scheduled Tribes Prevention of Atrocities Act 1989, the remaining accused were acquitted. The Sessions Judge found it was a case of Election dispute and not a case of atrocity dalits.

On 07.07.1997 following the six murders a Bandh was organised at Melur and Soundararajan a Dalit was killed and the accused were acquitted by the SC/ST Special Court, Madurai. Because of lack of Evidence.



On 05.05.1995 K. Chandran, a Dalit Youth from Peraiyur Community also called as Vanangamudi Chandran was mercilessly killed by Hindus. He being a very good agriculturist and skilled in electric and plumbing works was able to acquire 10 acres of land in his village Ulagupitchanpatti. His self esteem and land possession were an eye sore for some caste Hindus viz., Kallars in the locality. Four dalit youths Kandasami, Bose, Thangam and Nallan were beaten up for playing the Audio Casette containing the speeches and songs on Dr. Ambedkar. Ironically Dr. Ambedkar as a law minister stood by the backward class. Hindus to amend the Constitution for the first time to enable the backward class Hindus in Tamilnadu to get their due share in the field of education and employment. After the Madras High Court struck down the Government order providing reservation for backward classes, in higher education, the Supreme Court affirmed the judgement of Madras High Court and it required an amendment of the Constitution to fulfill the aspirations of people. Dr. Ambedkar was instrumental for the first Amendment which enabled backward classes to get their due.

But caste knows no Constitutional history and the persons who played the Ambedkar Casette were called by prominent Kallars and they were directed to prostrate before them. Mr. Chandran refused to prostrate before casteist elements and for this reason he was called as Vanangamudi Chandran. But Chandran had to pay a heavy price, his life for having self esteem. On 05.05.1995 he was surrounded by 26 Hindus in his village in the early morning like hungry wolves on a Lion and they tore him into pieces with deadly weapons. Despite his statement before death and statements of eye witnesses, the case was unceremoniously transferred from the special court Madurai to Sessions Court, Tuticorin by the order of a High Court Judge and the Sessions Court delivered an order of acquittal without deciding the plea by the brother of the deceased not to decide the case because of lack of jurisdiction in view of the SC/ST (POA) Act.<sup>2</sup>

## **Land Structure in Chennagarampatti Village**

Study on Chennagarampatti village was conducted by a team of lawyers and social activists of SOCO Trust Ms.S. Selvagomathy, Mr.P. Moovendran, Ms.G. Kavitha, Mr. N. Dinesh Pandian and Mr. S. Francis Xavier who made a field study of Chennagarampatti and surrounding villages.

Chennagarampatti Village is comprised of 16 hamlets or pattis. They are Keezhapatti, Nadupatti, Melapatti, Kamatchipatti, Muthuvel patti, Thenipatti, Kanakkanpatti, Kavattayanpatti, Royrampatti, Ponnikaruppanpatti, Othapatti, Chettiarpatti, Ammatchipuram and Kailasapuram. Each of the hamlet Kallars who are classified as Backward Classes by the Central government and most backward classes (MBC) by the State government are in majority except three villages.

In Melapatti, there are about 250 Muslim families hundred more than Kallar families and in Kanakkanpatti there are 20 Paraiyar households compared to the 6 Kallar households and in Chettiarpatti there are 60 Valaiyar families compared to 3 Kallar families. In Naduppatti Kallars and Paraiyars are numerically equal. Barring those hamlets other hamlets have a strong Kallar presence. Hamlets like Kailasapuram, Ponnikaruppanpatti, Ammatchipuram, Royrampatti, Kamatchipatti are exclusive Kallar villages. Land structure in each hamlet is almost same. For example in Nadupatti hamlet out of the 20 Paraiyar families only 5 families are having land holding that too less than 3 acres. But on the contrary the land holding of Kallars account for almost 80 percent of total landholding. Except few Muslims and Chettiars all the Land holdings. More than 15 acres are owned by Kallars.



In Melapatti there are 150 Kallar families. More than 20 acres of land and the rest have 5 to 15 acres of land for each family. Four Muslim families own more than 30 acres of land. In addition to the aforesaid land pattern, the hamlets also maintain community lands which will be taken on lease by Kallars alone. In Kavattaiyanpatti there are 10 acres of community land, in Melapatti village there are 13 acres of community lands, in Kamatchipatti 7 acres of community lands and in Royrampatti where the village deity is Alagarappan thotichi, in Kavattiyampatti, it is an Ayyanar Kovil. Few dalits have also managed to raise some crops in the watershed areas and they pay fine or thandam to the government to use the same.

Apart from the wetlands and dryland possession by the Hindus, Dalits were also deprived of another important source of income, the fish wealth in the Lake or Kanmai. Though in papers the lakes are vested with the government, in reality, they are under the possession and enjoyment of Kallar. There are three water bodies in Chennagarampatti (1) Sookanmai (2) Kakkanakanmai and (3) Pasi Urani all, these three water bodies irrigated almost 1500 acres and they spread in an area of 250 acres. Fresh water fishes like cutla, (Carp), Viral and keluthi (Catfish) are reared in the Kanmai and the annual auction would easily fetch more than three lakhs, which is the exclusive domain of the Kallars. The Governments efforts wrest it's control in the fishing rights from the dominant communities failed and Dalits could not even imagine in the participation of auction.

In scarce seasons the crops in the marginal lands by Dalits will have to stand last in the queue to get the share of water, any claim of promotion will be dealt with force. A mere look at the land structure and the system would tell the glaring inequalities which is systematically preserved and well maintained the class divisions in the name of caste and untouchability. The majority of the Dalits will

have to live at the mercy of Kallar landlords for their livelihood. Agricultural labour is cheap but available work is limited. The invasion machineries to plough, sow and harvest had also taken a heavy toll of labour force resulting in large scale migrations of Dalits to nearby towns and cities forcing them to live in slums. There are several cases of child bonded labourers from scheduled caste community in and around Melur district, 57 years of independence has produced 4 teachers, one lawyers, four policemen, 2 class IV servants in bank and government, few graduates and post graduate was working as a temporary employee in a Panchayat Board Office. Kallars are also not faring better in terms of government employment.<sup>3</sup>

There were tiled houses allotted and constructed for the government during 1985 and roofs caved in within years because of door materials and it waited for many years for the arrival Mr. Kasiviswanathan, IAS, then Collector of Madurai District who personally inspected the dalit villages and arranged to lay strong concrete roofs in a majority of Houses. However, there 150 square feet houses are smaller than many of the kennels in posh houses in cities. Unlike Samathuvapuram scheme in Tamilnadu where all communities were brought together in a single place of living a pioneering effort to end secreation but did not completely achieve its' object, colonies of scheduled caste are built outside the village and they remain as ghattos.

### **Land Reform in Chennagarampatti a Big Official Joke**

On 01.02.1989 6.27 acres of land belonging to minor Kandasamy and Palaniappan were declared surplus in Chennagarampatti village and the final notification was issued on 30.06.1989 under Tamilnadu Land Reforms (Disposal of Surplus



lands) Rules 1969. On 29.09.1995 the land assignment order to 41 dalits were issued. The 41 Paraiyar beneficiaries including M/s Pirampan, Meyyan, Selvan, Sevugan, Nainars, Chinnappayal and Ms. Selvi and Ms. Mudaliar have been waiting over a decade to get the possession of each 15 cents of land. Today the government records show that the lands are assigned to Scheduled Castes but they could not even go near the land that is only lying 500 meters away from their houses but it is in the illegal possession and encroachment by the three members of Kallar community. That was one of the aborted Land Reforms attempt at Chennagarampatti village. There are other surplus lands which are yet to be distributed to Dalits or other landless persons. The idea of Land reforms is only circulated as an official Joke in these parts and apathy of the state is very much visible in Chennagarampatti, which is only an example of thousands of other villages in Tamilnadu.<sup>4</sup>

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## **SOLVING THE POVERTY PUZZLE**

According to the Report of land reforms of Lal Bahadur Shastri National Academy of Administration,<sup>1</sup> during Bhoodan Movement 41.94 lakh acres were collected by way of donations. 13.15 lakh acres had come from Bihar out of which 12.24 lakhs acres were unfit for cultivation. A major reason for the short fall of Bhoodan Movement was the non availability of productive lands for distribution among beneficiaries, the same can also be said about Land Reform Laws. In addition to several legislative deficiencies and immediate intervention of courts in favour of landlords. The empowerment of Scheduled Castes can be achieved through various methods including creating access to education, providing employment access to resources, cultural empowerment etc. out of the aforesaid strategies, one of the long term solution could be distribution of productive lands to sustain them a decent livelihood. In each state and each district different models could be evolved to suit the socio economic necessity of the Scheduled Caste communities in that region. There are suggestions inter alia.

i. Distribution of surplus lands to Scheduled Caste, Scheduled Tribes communities.

ii. Protection to the assignee to take possession of the land if the same is under encroachment by third parties.

iii. Immediate transfer of ownership in the Government records and providing the assignee with necessary records and extracts pertain to his / her assigned land.

iv. Ensure the physical possession of the land transferred vested with the assignee.

v. Encourage the formation of Agricultural Co-operative Societies comprising of Scheduled Caste landless persons and assign the land to the society if the land cannot be effectively and productively divided into smaller lots.

vi. Effective implementation of Provisions of Records of Tenancy Act, Cultivating Tenants Protection Act, and maintenance of current records pertaining to land ownership.

vii. Effective implementation of Provisions of SC/ST. POA Act 1989 with 1995 Rules and Bonded Labour System Abolition Act 1976 and Preventive measures under the Act like externment, declaration of atrocity areas, providing arms to persons subjected to atrocities should be used effectively by the State.

viii. Elected Panchayats should be activated to assist the administration at the grass roots in identification, acquisition and distribution of Benami and Surplus Ceiling Land and Panchayats may also be involved in identifying the beneficiaries and to protect the rights of the beneficiaries and interests against illegal dispossession and in untouchability prone villages, the district administration should step in.

ix. A close monitoring of litigations in Courts and in many cases the legal entanglements could be easily unwound.

x. Special assistance and credit facilities could be given to beneficiaries to improve their land quality.

xi. Co-operative farming can be encouraged in areas where availability of land is less and number of beneficiaries are more.

xiii. Adequate measures to ensure that the Community lands like grazing land are not converted for Private purposes and ensure access to community lands to Scheduled Caste communities.



xiii. Preserving the water bodies and ensure access to water to Scheduled Castes.

Some critics speculate that land reforms would reduce the agricultural holdings making it uncultivable. They further argue that larger holdings could be more productive. The fallacy of their contention can be easily disproved. In "The Road Back To Nature" the famous natural agriculturist Fukuoka explains the plight of American Farmer "Farmers grow hundreds and hundreds of acres of nothing but Soyabeans. Proceeding east again, this time all we see are fields of wheat. These grain farmers grow almost no vegetable for home consumption. Since, they are not self-sufficient, circumstances are tight, they plow fields a hundreds times larger but live a more meagre and deprived existence than the Japanese farmer on two or more acres". Fukuoka unveils the poverty stricken America "America and it's farmers are not affluent at all. Actually this is a poor nation. The food tastes bad, the soil is impoverished, and their don't seem to be any resources here at all. No wonder US buys foreign soil and uses it to produce food which is than shipped abroad and used as a strategic weapon. However, farmers in America grieved about how hard a time they had making ends meet".<sup>2</sup>

Policy makers of our country are very much influenced by American models. A classic tragedy is our so called green revolution authored by several scholars (not farmers). Systemically Green Revolution destroyed the genetic diversity and introduced High yielding varieties, which infact performed worse than indigenous varieties in the absence of additional inputs of fertilizers. Green Revolution intensified monocropping and destroyed food security.<sup>3</sup> Green Revolution strategy entered India by the joint efforts of Mr. C. Subramaniam who became the agricultural Minister in 1964 and Mr. M.S. Swaminathan who became the Director of IARD in

1965, and had been trained by Norman Borlang, who worked for Rockfellers' agricultural programme in Mexico. The American strategy of the Rockefeller and Ford Foundation differed from the indigenous strategies primarily in the lack of respect for nature's processes and people's knowledge. In mistakenly identifying the sustainable and lasting a backward and primitive".

The American model was forced on farmers of India and farmers of India and farmers were made to believe that a new revolution dawned upon them. Ultimately the revolution only benefited the experts, researchers, scholars, pesticide and chemical fertilizer manufacturers and not the farmers who ended up with impoverished soil and crop failure related suicides, Green Revolution did not revolutionise the distribution of food among hungry stomachs but many millions of acres of food producing lands were sacrificed in the altars of money to give way to cash crops. Ironically Dr. M.S. Swaminathan is presently the head of the National Commission on farmers and he is advocating organic and indigenous farming in India which was once decimated in the name of Green Revolution. Small agricultural holding would ensure the right to livelihood enshrined in Article 21 of our Constitution. Popular economist E.F. Schumacher repeatedly argued the case of smallness. He invited the human race to give up the universal idolatry of giantism. Schumacher discusses India's unemployment in his world renowned work "small is beautiful" and found the indigenous technology as the answer.<sup>4</sup>

The World Employment Report for the year 2004 - 2005 advocates that policies ensuring basic property rights and enforcement of contracts can play a role in improving productivity. The tenurial security provided by the land reforms implemented by the left front government in West Bengal, had a positive effect on agricultural productivity. Land reform laws in Indian states alone accounted for 10 percent overall fall in poverty between 1958 and 1992.<sup>5</sup>



Different models and programmes can be adapted to suit the needs of the region. Distribution of lands is a Principle of distributive justice. A civilized society can be evolved only if inequality is removed. Violence would certainly be on the increase in a society with social inequalities. Communities would resort to violent redistribution process like theft, robbery, dacoity in a unjust society. Justice social, economical and political is the goal of our Constitution. No doubt State should be neutral, however it must be stated that neutrality is not only taking no sides but also to take the side of victim in need.

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### **About the author...**

T. Lajapathi Roy is a renowned Advocate of Madurai Bench Of Madras High Court. Earlier he had practised at the Supreme Court for seven years. He is a Human Rights Lawyer and social activist having taken up plethora of cases to fight the cause of Bonded Labourers and Dalits. Environmental issues and Jain iconography are his other areas of interest. His earlier works include translation of essays of Arundhati Roy and a book on SC/ST Prevention Of Atrocities Rules, 1995 published by SOCO Trust, Madurai.

This book deals with the relevance of land reforms to put an end to the atrocities on Dalits in many forms including Bonded Labour System. Melavalavu Massacre, Chennagarampatti Murders, Kandadevi Discrimination, Keezha Venmani Arson, Unjanai Murders, Constitutional Failures in Papapatti and Keeripatti are atrocities on Dalits. With a Strong element of land A fair discussion on the subject is the need of the hour. Land reforms are important for the survival of the Democracy. The book Prescribes land reform as a panacea to cure many social diseases.



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